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FEDERAL REGISTER

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Presidential Documents

Title 3—THE PRESIDENT

Executive Order 10970

DELEGATING CERTAIN AUTHORITY OF THE PRESIDENT TO ESTABLISH MAXIMUM PER-DIEM RATES FOR GOVERNMENT PERSONNEL IN TRAVEL STATUS

By virtue of the authority vested in me by section 3 of the Travel Expense Act of 1949 (63 Stat. 166), as amended by the act of August 14, 1961, 75 Stat. 339 (5 U.S.C. 836), and by section 301 of title 3 of the United States Code, it is hereby ordered as follows:

SECTION 1. There is hereby delegated to the Secretary of State the authority vested in the President by section 3 of the Travel Expense Act of 1949 (63 Stat. 166), as amended (5 U.S.C. 836), to establish maximum rates of per-diem allowances for civilian officers and employees of the Government to the extent that such authority pertains to travel status at localities in foreign areas as defined in section 111 of the Overseas Differentials and Allowances Act (74 Stat. 792).

SEC. 2. Executive Order No. 10530 of May 10, 1954, entitled "Providing for the Performance of Certain Functions Vested in or Subject to the Approval of the President," as amended, is hereby further amended by adding at the end of section 1 thereof the following new paragraph (v):

"(v) The authority vested in the President by section 3 of the Travel Expense Act of 1949, 63 Stat. 166, as amended (5 U.S.C. 836), to establish maximum rates of per-diem allowances for civilian officers and employees of the Government to the extent that such authority pertains to travel status other than at localities in foreign areas as defined in section 111 of the Overseas Differentials and Allowances Act (74 Stat. 792)."

SEC. 3. Existing maximum per-diem allowances established by the Director of the Bureau of the Budget under the authority of section 3 of the Travel Expense Act of 1949 (63 Stat. 166) shall remain in effect until changed by the Secretary of State or the Director of the Bureau of the Budget under the authority delegated to them by this order.

JOHN F. KENNEDY

THE WHITE HOUSE,

October 27, 1961.

[F.R. Doc. 61-10415; Filed, Oct. 30, 1961;
10:08 a.m.]

Rules and Regulations

Title 7—AGRICULTURE

Chapter I—Agricultural Marketing Service (Standards, Inspections, Marketing Practices), Department of Agriculture

SUBCHAPTER K—FEDERAL SEED ACT

PART 201—FEDERAL SEED ACT REGULATIONS

Amendment of Joint Regulations of Secretary of Treasury and Secretary of Agriculture

On May 13, 1961, there was published in the FEDERAL REGISTER (26 F.R. 4169) a notice of rule-making and of hearings with respect to proposed amendments to the joint rules and regulations under the Federal Seed Act. After consideration of all relevant matters presented at the hearings or in writing pursuant to the notice, and, under authority of section 402 of the Federal Seed Act (7 U.S.C. 1592), §§ 201.210, 201.211, 201.212, 201.215, 201.221a, 201.222, 201.225, 201.226, 201.228, and 201.230 of the joint rules and regulations of the Secretary of the Treasury and the Secretary of Agriculture (7 CFR 201.210, 201.211, 201.212, 201.215, 201.221a, 201.222, 201.225, 201.226, 201.228, and 201.230) under the Federal Seed Act are hereby amended and a new § 201.228a is hereby added to said regulations to read, respectively, as follows:

§ 201.210 [Amendment]

1. Section 201.210(a) is amended by adding at the end of the paragraph the following wording: "When more than one trierful of seed is drawn from a bag, different paths shall be followed. When more than one handful is taken from a bag, the handfuls shall be taken from well-separated points."

2. Section 201.210(c) is amended by adding at the end of the paragraph the following wording: "The hand shall be inserted in an open position and the fingers shall be held closely together while the hand is being inserted and the portion withdrawn."

3. Section 201.210(g) is amended to read as follows:

(g) Sampling shall not proceed unless (1) each container is stencilled or otherwise labeled to show the lot designation and the name of the kind, or kind and variety, appearing on the invoice and other entry papers and (2) a "Declaration of Labeling" has been filed by the importer of record as required under § 201.228a.

§ 201.211 [Amendment]

4. Section 201.211 is amended by deleting the existing wording and substituting therefor the following:

§ 201.211 Bulk.

Bulk seeds or screenings shall be sampled by inserting a long probe or thrusting the hand into the bulk as circumstances require. At least as many trierfuls or handfuls as the minimum required for the same quantity of seed or screenings in bags of a size customarily used for such seed or screenings shall be taken.

§ 201.212 [Amendment]

5. Section 201.212(a) is amended by deleting the existing wording and substituting therefor the following:

(a) For lots of six bags or less, each bag shall be sampled. A total of at least five trierfuls shall be taken.

6. Section 201.212(b) is amended by deleting the existing wording and substituting therefor the following:

(b) For lots of more than six bags, five bags plus at least 10 percent of the number of bags in the lot shall be sampled. (Round off numbers with decimals to the nearest whole number, raising 0.5 to the next whole number.) Regardless of the lot size, it is not necessary that more than 30 bags be sampled.

§ 201.215 [Amendment]

7. Section 201.215 is amended by deleting the wording of the entire section and substituting the following:

§ 201.215 Statements to accompany samples.

All samples shall be accompanied by (1) a description of the lot of seed offered for importation, on a form provided for this purpose by the Department of Agriculture and (2) the declaration of labeling required in § 201.228a.

§ 201.221a [Amendment]

8. Section 201.221a is amended as follows:

a. Change the table number from "3" to "4".

b. Under "Agricultural Seeds" in the appropriate columns of table 4 insert the following:

Bluegrass, glaucantha.....	25	100
Clover, Kenya.....	25	100
Fescue, hard.....	25	100
Panicgrass, green.....	25	100
Ryegrass, Wimmera.....	25	100
Wheatgrass, beardless.....	25	100
Wheatgrass, Siberian.....	25	100

c. Under "Vegetable Seeds" in the appropriate columns of table 4 insert the following:

Burdock, great.....	10	50
Cabbage, tronchuda.....	5	10
Chives.....	5	10

§ 201.222 [Amendment]

9. Section 201.222(a) is amended as follows:

a. Delete the words "Austrian Winter" from the listing "Pea, Austrian Winter".

b. Change the name "Proso" to "Millet, proso" and place in proper alphabetical order.

§§ 201.225, 201.226, 201.228, and 201.230 [Amendments]

10. Sections 201.225, 201.226, 201.228, and 201.230 are amended by deleting from each section the sentence specifying the salary rate and inserting the following: "Travel and per diem or subsistence expenses shall be reimbursed at the rate allowed for employees of the United States in accordance with Standardized Government Travel Regulations. Salary shall be reimbursed at the average rate paid to employees engaged in supervision activities plus average related costs."

11. Following § 201.228 a new section is inserted to read as follows:

§ 201.228a Declaration of labeling.

For each importation of seed the importer shall submit with the entry papers and identify by the heading "Declaration of Labeling" a copy of the commercial invoice, accurately showing thereon any information on or attached to the containers of the seed regarding the kind and variety; distinguishing marks; origin; percentages of pure seed, weed seed, inert matter, other crop seed, pure live seed, germination, and hard seeds; the date of test; the name and rate of occurrence of noxious-weed seeds; and the name of any substance or process used in treating the seed.

These amendments shall become effective on November 30, 1961, with the exception of the amendments to §§ 201.210(g) (2), 201.215(2), and 201.228a regarding a "declaration of labeling" on imported seed, which shall become effective on July 1, 1962.

(Sec. 402, 53 Stat. 1285, 7 U.S.C. 1592)

Done at Washington, D.C., this 20th day of October 1961.

DOUGLAS DILLON,
Secretary of the Treasury.
ORVILLE L. FREEMAN,
Secretary of Agriculture.

[F.R. Doc. 61-10343; Filed, Oct. 30, 1961; 8:52 a.m.]

Chapter IV—Federal Crop Insurance Corporation, Department of Agriculture

[Amdt. 24]

PART 401—FEDERAL CROP INSURANCE

Subpart—Regulations for the 1961 and Succeeding Crop Years

TOBACCO

Pursuant to the authority contained in the Federal Crop Insurance Act, as amended, the above-identified regula-

tions are amended effective beginning with the 1962 crop year in the following respects:

1. The portion of the table following paragraph (a) of § 401.3 of this chapter, under the heading tobacco is amended beginning with the 1962 crop year to read as follows:

TOBACCO

Types of tobacco:

11b	May 15
12	Apr. 30
13	Apr. 15
14	Mar. 31
11a, 21, 22, 23, 31, 32, 35, 36, 37, 41, 51, 52, 54, and 55	May 31

2. The tobacco endorsement published in § 401.31 of this chapter is amended effective beginning with the 1962 crop year to read as follows:

§ 401.31 The tobacco endorsement with provision for indemnity based upon dollar amount of insurance per acre less value of production to be counted.

The provisions of this tobacco endorsement (applicable in those counties where a pound guarantee is not shown on the county actuarial table) for the 1962 and succeeding crop years are as follows:

1. *Causes of loss insured against.* The insurance provided is against unavoidable loss of production due to wildlife, insect infestation, plant disease, pole burn, earthquake, drought, flood, hail, wind, frost, freeze, lightning, fire, excessive rain, snow, hurricane, tornado, and any other unavoidable cause of loss due to adverse weather conditions, subject however, to any exceptions, exclusions or limitations with respect to such causes of loss that are set forth in the county actuarial table.

2. *Insured crop.* Insurance shall not be considered to have attached on (a) acreage on which it is determined by the Corporation that tobacco is destroyed for the purpose of conforming with any other program administered by the Secretary of Agriculture, (b) any acreage planted to tobacco of a discount variety under the provisions of the tobacco price support program or (c) an irrigated basis on acreage otherwise insurable on such basis unless it is so reported and designated by such practice at the time the acreage is reported.

3. *Responsibility of the insured to report acreage and interest.* In lieu of section 2 and subsection 21(a) of the policy, the following provisions of this section shall apply: If the tobacco acreage or interest therein of an insured at time of planting for any crop year differs from the tobacco acreage or interest shown on the acreage report applicable under such insured's tobacco crop insurance contract in force for the previous crop year, and if in any crop year an insured has a tobacco crop insurance contract in force but did not have a contract in force the previous crop year, such an insured shall, on a form prescribed by the Corporation, submit a report (including revised reports if necessary) to the county office which shall set forth all of the acreage planted or to be planted to tobacco (including a designation of any acreage of tobacco to which insurance will not attach) in the county in which he has an interest or expects to have an interest and his interest or the interest he expects to have therein at the time of planting. Such report or reports shall be submitted not later than 30 days after planting of the insured crop is generally completed in the county for such crop year. If the insured fails to submit such acreage report for the first crop year of a new crop insur-

ance contract for tobacco within 30 days after planting of the insured crop is generally completed in the county for such crop year; the Corporation may elect to determine the insured acreage and his interest and enter the same on such acreage report form or declare the insured acreage to be zero. If the actual acreage of tobacco or interest therein shown on any such report changes for any crop year, the insured shall submit a report to the county office of such changes on a form prescribed by the Corporation, within 30 days after the planting of the insured crop is generally completed in the county for that crop year. If the report of an insured's acreage or interest applicable to a crop year is not revised by the submission by the insured, of a revised report within 30 days after the planting of an insured crop is generally completed in the county in the following crop year, such acreage report shall be treated as and considered to be the insured's report of the acreage and interest of the insured applicable to the following crop year. Any acreage report submitted by the insured shall be binding upon the insured and shall not be subject to change by the insured except as revised in accordance with this paragraph.

4. *Amounts of insurance per acre.* (a) The provisions of subsection 3(b) of the policy shall not be applicable with respect to amounts of insurance per acre under this endorsement.

(b) In addition to the provisions contained in section 6 of the policy, the dollar amounts of insurance per acre shown on the county actuarial table may be adjusted for any crop year prior to the cancellation date by multiplying the support price per pound (less warehouse charges as determined by the Corporation) for the previous crop year by the amounts in pounds per acre shown on the county actuarial table for such purposes: *Provided, however,* That if for any crop year the support price per pound is reduced 10 percent or more below the support price per pound for the previous crop year the dollar amounts of insurance per acre for the current crop year shall be adjusted by multiplying the support price per pound (less warehouse charges as determined by the Corporation) for the current crop year by the amount in pounds per acre shown on the county actuarial table for this purpose: *Provided, further,* That where a tobacco price support program is not in effect for the kind of tobacco which includes the insured type for the 1962 or any succeeding crop year, the amounts in pounds per acre shown on the county actuarial table will be multiplied by the market price for that crop year to determine the dollar amounts of insurance per acre for such crop year. The premium shall be based on the applicable amount of insurance per acre and the premium rates shown on the county actuarial tables.

5. *Insurance period.* Insurance on any insured acreage shall attach at the time the tobacco is planted and, with respect to any portion of the crop, shall cease upon weighing-in at the tobacco warehouse, transfer of interest in the tobacco after harvest, or removal of the tobacco from the insurance unit (except for curing, grading, packing, or immediate delivery to the tobacco warehouse), whichever occurs first, but in no event shall insurance remain in effect (a) for the following types later than the applicable date set forth following the normal harvest period:

Type of tobacco:	Date
11	Jan. 31
12	Dec. 31
13	Nov. 30
14	Sept. 30
21, 22, 23, 37, 41, 51, 52, 54, and 55	Mar. 31
31, 35, and 36	Feb. 28

and (b) for type 32 tobacco, the August 31 of the next succeeding calendar year following the calendar year in which the crop was planted.

6. *Notice of loss or substantial damage.* (a) Where tobacco is not sold through auction warehouses, if after curing the tobacco it appears probable that a loss on any insurance unit under the contract will be sustained, notice in writing shall be given to the Corporation at the county office to allow the Corporation time to make an inspection before the crop is sold, contracted to be sold, or otherwise disposed of.

(b) In lieu of the provisions of section 8(b) of the policy, if at the completion of selling or otherwise disposing of the insured tobacco, a loss on an insurance unit under the contract is probable, notice in writing shall be given within 15 days to the Corporation at the county office but in no event shall such notice be given later than the calendar date for the end of the insurance period.

7. *Claims for loss.* (a) Notwithstanding section 11(a) of the policy, any claim for loss on an insurance unit shall be submitted to the Corporation, on a form prescribed by the Corporation, not later than 60 days after the amount of loss can be determined, but in no event shall such form be submitted later than (1) the last day of the next succeeding month following the calendar date shown in section 5 of this endorsement for the end of the insurance period except for types 41, 54, and 55 tobacco, and (2) the last day of the second succeeding month following the calendar date shown in section 5 of this endorsement for the end of the insurance period for types 41, 54, and 55 tobacco.

(b) In determining any loss under the contract, production shall be valued as follows: (1) The gross returns (less warehouse charges) from the tobacco sold on the warehouse floor, (2) the fair market value, as determined by the Corporation, of the tobacco sold other than on the warehouse floor, (3) the fair market value, as determined by the Corporation, of the tobacco harvested and not sold, and (4) the fair market value of any unharvested tobacco determined by the Corporation as if such tobacco were harvested and cured. Any appraisals of production for any crop year made for poor farming practices or uninsured causes of loss, shall be valued at the support price per pound (less warehouse charges as determined by the Corporation) for the current crop year: *Provided, however,* That if a price support program is not in effect, such appraised production shall be valued at the market price for the current crop year. The value of the total production to be counted for any acreage abandoned or put to another use without the consent of the Corporation shall be the dollar amount of insurance provided for such acreage.

(c) To enable the Corporation to determine the fair market value of tobacco not sold through auction warehouses, the Corporation shall be given the opportunity to inspect such tobacco before it is sold, contracted to be sold, or otherwise disposed of by the insured and, if the best offer received by the insured for any such tobacco is considered by the Corporation to be inadequate, to obtain additional offers therefor on behalf of the insured.

(d) In lieu of subsection 11(c) of the policy, the following shall apply: "Losses shall be determined separately for each insurance unit. The amount of loss with respect to any insurance unit shall be determined by (1) multiplying the insured acreage of tobacco on the insurance unit by the applicable amount of insurance per acre, (2) subtracting therefrom the value (determined in accordance with subsection (b) of this section) of the total production to be counted for the insurance unit, and (3) multiplying

the remainder by the insured interest: *Provided*, That if for the insurance unit the insured fails to report all of his interest or insurable acreage the amount of loss shall be determined with respect to all of his interest and insurable acreage but, in such cases or otherwise, if the premium computed on the basis of the insurable acreage and interest exceeds the premium on the reported acreage and interest or the acreage and interest when determined by the Corporation under section 3 of this endorsement, the amount of loss shall be reduced proportionately. The total production to be counted for an insurance unit shall include all harvested production and any appraisals made by the Corporation for unharvested, or potential production, poor farming practices, uninsured causes of loss, or for acreage abandoned or put to another use without the consent of the Corporation: *Provided*, That the value of the total production to be counted for any unharvested acreage shall be not less than 20 percent of the total amount of insurance provided for such acreage and no insured acreage shall be considered as harvested unless the pounds of tobacco actually harvested per acre therefrom equals or exceeds 20 percent of the amount in pounds per acre shown on the county actuarial table for such purposes.

8. *Life of contract, cancellation, or termination thereof.* (a) Notwithstanding section 15(b) of the policy, insurance may be provided in any crop year to any person who cancelled his contract for that crop year and who applies for insurance to cover (1) an interest (individual or sharecroppers') not covered by the cancelled contract, or (2) both the individual and sharecroppers' interest where only one such interest was covered under the cancelled contract.

(b) Notwithstanding section 15(a) of the policy, the contract shall not terminate because a premium due on type 32 tobacco planted in the preceding calendar year remains unpaid.

9. *Meaning of terms.* For purposes of insurance on tobacco the terms:

(a) "Harvest" as to any acreage means cutting or priming of at least 20 percent of the amount of tobacco in pounds per acre shown on the county actuarial table for such purpose.

(b) "Insurance unit", notwithstanding section 21(g) of the policy, means respectively (1) all insurable acreage in the county of an insurable type of tobacco in which one person at the time of planting has the entire interest in the crop, or (2) all such insurable acreage in the county in which two or more persons at the time of planting have the entire interest in the crop, excluding any other acreage of tobacco in the county in which such persons together do not have the entire interest in the crop.

(c) "Market price" for a crop year in the case of tobacco (1) types 11, 12, 13, 14, 21, 22, 23, 31, 32, 35, 36, and 37 means the average auction price for the applicable type (less warehouse charges) in the belt or area as determined by the Corporation, and (2) types 41, 51, 52, 54, and 55 means the average price for the applicable type in the belt or area as determined by the Corporation. The market price when determined by the Corporation shall be filed in the county office with the county actuarial table.

(d) "Owner-operator" means a person who owns land and is responsible for farm management with respect to the production of tobacco on such acreage whether produced by his own or other person's labor. Land rented for cash or for a fixed commodity payment shall be considered owned by the lessee.

(e) "Planting" means transplanting the tobacco plant from the bed to the field.

(f) "Tenant-operator" means a person who rents land from another person for a share of the tobacco crop, or proceeds therefrom, produced on such land and is responsible

for farm management with respect to the production of tobacco on such acreage whether produced by his own or other person's labor.

(g) "Sharecropper" or "share tenant" means a person other than an owner-operator or tenant-operator who works tobacco under supervision of a farm operator and is entitled to receive a share of the crop or proceeds therefrom and includes a person employed on the farm of an owner-operator or tenant-operator who receives for his labor the entire interest of such owner-operator or tenant-operator in the tobacco crop, or proceeds therefrom, produced on a specified acreage of such farm (for the purpose of the contract the owner-operator or tenant-operator of the farm shall be considered to have an interest in such acreage).

(h) "Support price per pound" means the average price support level per pound for the applicable type of tobacco as announced by the United States Department of Agriculture under the tobacco price support program.

10. *Cancellation, termination for indebtedness, and discount dates.* For each year of the contract the cancellation date shall be the following applicable date immediately preceding the beginning of the crop year for which the cancellation is to become effective: February 28 for counties in Connecticut, Maryland, Massachusetts, Pennsylvania, and Virginia; and January 31 for all other counties. The discount date for the 1962 crop year only shall be the applicable date listed below. The termination date for indebtedness for each crop year of the contract shall be the applicable date listed below immediately preceding the beginning of the crop year for which the termination is to become effective.

Types of tobacco	Discount date ¹	Termination date ¹
11a.....	Dec. 15, 1962	May 31
11b.....	Dec. 15, 1962	May 15
12.....	Dec. 15, 1962	Apr. 30
13.....	Nov. 30, 1962	Apr. 15
14.....	Sept. 30, 1962	Mar. 31
21, 31, and 37.....	Feb. 28, 1963	May 31
32.....	Jul. 31, 1963	May 31
22, 23, 35, and 36.....	Mar. 31, 1963	May 31
41, 51, 52, 54, and 55.....	May 31, 1963	May 31

¹ In case 2 or more types of tobacco are insured under the contract, the latest date for any type of tobacco insured shall apply to the entire tobacco premium for the contract.

11. *Irrigated acreage.* The following provisions shall apply in lieu of subsection 22(a) of the policy in any case where no damage to the tobacco crop on insured acreage occurs due to drought or failure to apply irrigation water: "The acreage of an insured crop which shall be insured on an irrigated basis in any year shall not exceed that acreage which normally could be irrigated adequately with the facilities available, taking into consideration the amount of water available after providing the water required to irrigate the acreage of all uninsured irrigated crops on the farm."

12. *Partial insurance.* The insured may elect for any crop year a percentage of the applicable amount of insurance per acre if such percentage is shown on the county actuarial table on file in the county office. In any case where such an election is made the amount of premiums (subject to section 5 of the policy) and any indemnities payable under the contract shall be adjusted accordingly. For the first crop year of tobacco crop insurance the election must be made in writing at the time the application for tobacco crop insurance is filed. For any subsequent crop year, an election may be made, changed or rescinded by notifying the county office in writing on or before the applicable

termination date for indebtedness for the crop year. Notwithstanding any other provisions of this section, any insured with a tobacco crop insurance contract in force during the 1961 crop year in Alamance, Caswell, Davidson, Forsyth, Granville, Guilford, Rockingham, Stokes, Surry, Vance, and Yadkin Counties, North Carolina, who for the 1962 crop year fails to elect the full amount of insurance under this endorsement or a percentage of the amount of insurance under this section shall be deemed to have elected the percentage shown on the county actuarial table for this purpose.

(Secs. 506, 516, 52 Stat. 73, as amended, 77, as amended; 7 U.S.C. 1506, 1516)

Adopted by the Board of Directors on October 18, 1961.

[SEAL] EARLL H. NIKKEL,
Secretary,
Federal Crop Insurance Corporation.

Approved on October 26, 1961.

JAMES T. RALPH,
Assistant Secretary.

[F.R. Doc. 61-10347; Filed, Oct. 30, 1961;
8:52 a.m.]

Chapter VII—Agricultural Stabilization and Conservation Service (Agricultural Adjustment), Department of Agriculture

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

[Amdt. 3]

PART 725—BURLEY, FLUE-CURED, FIRE-CURED, DARK AIR-CURED AND VIRGINIA SUN-CURED TOBACCO

Marketing Quota Regulations, 1962-63 Marketing Year; Lease and Transfer of Tobacco Acreage Allotment

(1) *Basis and purpose.* This amendment to the above-designated regulations (26 F.R. 6419, 6581, 7694, 9505) is issued pursuant to the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1281 et seq.), and the provisions of Public Law 87-200, to include in a new section 725.1328 provisions for the leasing and transfer of flue-cured, fire-cured, dark air-cured and Virginia sun-cured tobacco acreage allotments. Prior to preparing this amendment, public notice was given (26 F.R. 9237) in accordance with section 4 of the Administrative Procedure Act (5 U.S.C. 1003). The data, views and recommendations pertaining to the regulations in section 725.1328 which were submitted have been duly considered within the limits permitted by the Agricultural Adjustment Act of 1938, as amended, and Public Law 87-200. Since farmers are now making 1962 crop plans and such plans may be affected by the provisions governing the lease and transfer of tobacco allotment acreage, it is hereby found that compliance with the 30-day effective date provision of section 4 of the Administrative Procedure Act is impracticable and contrary to the public interest and this amendment shall be effective upon filing of this document with the Director, Office of the Federal Register.

(2) *The amendment.* A new § 725.1328 is added to read as follows:

§ 725.1328 Lease and transfer of tobacco acreage allotment.

(a) Notwithstanding the provisions of §§ 725.1311 through 725.1327, but subject to the limitations provided in this section 725.1328, the owner and operator (acting together if different persons) of any farm for which an old farm 1962 tobacco acreage allotment for flue-cured, fire-cured, dark air-cured or -Virginia sun-cured tobacco is established under § 725.1311 through § 725.1327 may lease and transfer all or any part of such allotment to the owner or operator of a farm in the same county with a 1962 allotment (old or new farm) for the same kind of tobacco for use on such farm. Such lease and transfer of allotment acreage shall be recognized and considered valid by the county committee subject to the conditions set forth in this section.

(b) Any lease shall be made on such terms and conditions, except as otherwise provided in this section, as the parties thereto agree upon. No lease of a 1962 tobacco acreage allotment or any part thereof shall be entered into for any period in excess of the 1962 crop year, but may be renewed for the 1963 crop year, if the parties so agree. Provisions governing renewals for 1963 will be made in allotment regulations issued for the 1963-64 marketing year.

(c) The lease and transfer of any 1962 allotment or any part thereof shall not be effective until a copy of such lease is filed with and determined by the county committee to be in compliance with the provisions of this section. Such lease and transfer shall not be effective unless a copy of the lease is filed with the county committee not later than April 1, 1962 for the States of Alabama, Florida, Georgia, North Carolina, South Carolina, and Virginia, and not later than May 1, 1962 for all other States.

(d) The county committee shall determine a normal yield per acre, in accordance with the provisions of § 725.1322 in the case of old farms and, in the case of new farms, § 725.1325, for each farm from which, and for each farm to which, a tobacco acreage allotment or any part thereof is leased. If the normal yield determined by the county committee for the farm to which the allotment acreage is transferred does not exceed the normal yield determined by the county committee for the farm from which the allotment acreage is transferred by more than ten percent, the lease and transfer shall be approved acre for acre. If the normal yield determined by the county committee for the farm to which the allotment acreage is transferred exceeds the normal yield for the farm from which the allotment acreage is transferred by more than ten percent, the county committee shall make a downward adjustment in the amount of the allotment acreage transferred by multiplying the normal yield established for the farm from which the allotment acreage is transferred by the acreage being transferred and dividing the result by the nor-

mal yield established for the farm to which the allotment acreage is transferred.

(e) The amount of allotment acreage which is leased from a farm (prior to any reduction made under paragraph (d) of this section) shall be considered for the purpose of determining future allotments (and tobacco acreage history) to have been planted to tobacco on such farm. The amount of allotment acreage which is leased and transferred to a farm shall not be taken into account in establishing allotments for subsequent years for such farm.

(f) Not more than five acres of allotment acreage (prior to any adjustment under paragraph (d) for normal yields) may be leased and transferred to any farm: *Provided*, That the total acreage allotted to any farm after such transfer (the sum of its own allotment and the acreage leased and transferred to it prior to any adjustment in normal yields) shall not exceed 50 percent of the acreage of cropland in the farm.

(g) A 1962 new farm allotment shall not be leased or transferred.

(h) 1962 tobacco allotment acreage shall not be leased and transferred to or from any farm which for 1962 is under a conservation reserve contract covering the entire farm. If only part of a farm is under a conservation reserve contract for 1962, tobacco allotment acreage shall not be leased and transferred from such farm in excess of the permitted acreage for the farm and 1962 tobacco allotment acreage shall not be leased and transferred to such a farm in excess of the permitted acreage less the 1962 tobacco acreage allotment for the farm without regard to a lease and transfer.

(i) The 1962 tobacco allotment acreage in a pool (see § 725.1320(a)), including allotment acreage which has been released to the county committee and reapportioned under the provisions of § 725.1320(b), shall not be eligible for lease and transfer.

(j) Any allotment acreage leased shall not be subleased.

(k) A revised notice showing the allotment acreage after lease and transfer, shall be issued by the county committee to each of the operators of all farms from which or to which 1962 tobacco allotment acreage is leased under this section.

(l) If a violation is pending which may result in an allotment reduction for a farm for 1962, the county committee shall delay approval of any lease and transfer of allotment from or to the farm until the violation is cleared or the allotment reduction is made. However, if the allotment reduction in such a case cannot be made effective for 1962 before the final date for reducing allotments for violations (see § 725.1319) the lease may be approved by the county committee. In any case, if, after a lease and transfer of a 1962 tobacco acreage allotment has been approved by the county committee it is determined that the allotment for the farm from which or to which such acreage is leased is to be reduced for a violation, the allotment reduction for such farm shall be delayed until 1963.

(m) Except with respect to the erroneous allotment notice provisions in § 725.1326, and the provisions for review in § 725.1327, the term "tobacco acreage allotment" as used in §§ 725.1311 through 725.1327 shall mean the allotment without regard to the application of the provisions of this section.

(n) If the 1962 allotment for a farm is reduced to zero, no 1962 tobacco allotment acreage for such kind of tobacco may be leased to such farm.

(o) No lease shall be approved by the county committee for any farm involved in a lease and transfer of allotment acreage until the time for filing an application for review (see § 725.1327), as shown on the original allotment notice for the farm, has expired. If an application for review is filed for a farm involved in a lease and transfer agreement, such agreement shall not be approved by the county committee until the allotment for such farm is finally determined pursuant to Part 711 of this chapter.

(p) The acreage allotment finally determined (after lease and transfer) for a farm under the provisions of this § 725.1328 shall be the 1962 allotment for such farm only for the purposes of determining (1) 1962 excess acreage, (2) the amount of penalty to be collected on marketings of excess tobacco including absorption of carry-over penalty tobacco, (3) eligibility for price support, and (4) the farm marketing quota and the percentage reduction for a violation in the allotment for the farm (see § 725.1319). Such percentage reduction determined as applicable when the violation occurred shall be applied to the allotment being reduced prior to any lease and transfer of allotment.

(q) An agreement for leasing 1962 tobacco allotment acreage may be dissolved at the request of all parties to the leasing by so notifying the county committee in writing not later than April 1, 1962, in the States of Alabama, Florida, Georgia, North Carolina, South Carolina and Virginia, and May 1, 1962 in all other States. In such a case, an official notice of the farm acreage allotment and marketing quota, disregarding lease and transfer, shall be issued by the county committee to each of the operators involved in the leasing agreement. If the request to dissolve the lease is made after the above specified date(s), the acreage allotments resulting from the lease and transfer shall remain in effect.

(r) Allotments for reconstituted farms shall be divided or combined in accordance with Part 719 of this chapter. For this purpose, the farm acreage allotment being divided or combined for a farm in 1962 shall be the allotment after lease and transfer has been made. For 1963, that part of the acreage allotment leased shall revert back to the farm from which it was transferred. Notwithstanding the above, in the case of divisions, the county committee may allocate for 1962 the leased acreage involved to the tracts involved in the division as the farm operators interested in such tracts agree in writing.

(Secs. 316, 375, 75 Stat. 469, 52 Stat. 66, as amended; 7 U.S.C. 1316, 1375)

Effective date: Date of filing with the Director, Office of the Federal Register.

Signed at Washington, D.C., on October 25, 1961.

H. D. GODFREY,
Administrator, Agricultural Stabilization and Conservation Service.

[F.R. Doc. 61-10346; Filed, Oct. 30, 1961; 8:52 a.m.]

Chapter IX—Agricultural Marketing Service and Agricultural Stabilization and Conservation Service (Marketing Agreements and Orders), Department of Agriculture

[Milk Order No. 2]

PART 902—MILK IN WASHINGTON, D.C., MARKETING AREA

Order Amending Order

§ 902.0 Findings and determinations.

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Washington, D.C., marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended, regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

(b) *Additional findings.* (1) It is necessary in the public interest to make this order amending the order effective not

later than November 1, 1961. Any delay beyond that date would tend to disrupt the orderly marketing of milk in the marketing area.

(2) The provisions of the said order are known to handlers. The recommended decision of the Assistant Secretary of Agriculture was issued October 5, 1961, and the decision of the Under Secretary containing all amendment provisions of this order, was issued October 20, 1961. The changes effected by this order will not require extensive preparation or substantial alteration in method of operation for handlers. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending the order effective November 1, 1961, and that it would be contrary to the public interest to delay the effective date of this order for 30 days after its publication in the FEDERAL REGISTER. (Sec. 4(c), Administrative Procedure Act, 5 U.S.C. 1001-1011.)

(c) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in section 8c(9) of the Act) of more than 50 percent of the milk, which is marketed within the marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order, amending the order, is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the order as herein amended; and

(3) The issuance of the order amending the order is approved or favored by at least two-thirds of the producers who during the determined representative period were engaged in the production of milk for sale in the marketing area.

Order relative to handling. It is therefore ordered, that on and after the effective date hereof, the handling of milk in the Washington, D.C., marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as amended, and as hereby further amended as follows:

§ 902.6 [Amendment]

1. Replace "Maryland State Highway 507" with "Stoakley Road".

§ 902.9 [Amendment]

2. Delete all of § 902.9(c).
3. Replace § 902.15 with the following:

§ 902.15 Producer.

"Producer" means any dairy farmer, except a producer-handler or dairy farmer for other markets, who produces milk which is approved by a duly constituted health authority for fluid disposition and which is received at a pool plant or is diverted to a nonpool plant (except a plant fully subject to the pricing provision of another Federal order) during any month(s) of March through September or, during any month(s) of October through February, is diverted to such nonpool plant pursuant to any of the paragraphs (a), (b), or (c) of this section: *Provided*, That if a handler

diverts during the month a quantity of milk in excess of the applicable limits set forth in paragraphs (b) and (c) of this section, all milk diverted by the handler shall be subject to the limit of the number of days of diversion pursuant to paragraph (a) of this section: *Provided further*, That the milk so diverted shall be deemed to have been received by the handler for whose account it is diverted at a pool plant at the location from which it was diverted: *And provided also*, That the criterion for determination of qualification under this paragraph for a dairy farmer delivering milk to a pool plant qualified under § 902.9(b) shall be the holding of a valid farm inspection permit issued by the applicable health authority having jurisdiction in the marketing area:

(a) Diverted to a nonpool plant(s) on not more than 8 days (4 days in the case of every-other-day delivery) during the month: *Provided*, That the definition of producer pursuant to this paragraph shall not include any dairy farmer with respect to the milk of such farmer which is, during any month of the October-February period: (1) Diverted on days in excess of the number of days specified in this paragraph; (2) diverted as the milk of a member of a cooperative association during any such month such association diverts the milk of any of its dairy farmer members pursuant to paragraph (b) of this section; or (3) diverted as the milk of a nonmember dairy farmer by a handler who, during the same month, diverts the milk of any nonmember dairy farmer pursuant to paragraph (c) of this section;

(b) Diverted to a nonpool plant(s) as the milk of a member of a cooperative association for the account of such association: *Provided*, That the quantity of milk so diverted by the cooperative association does not exceed ten percent of the total of such quantity and other milk from members of such cooperative association which meets the health requirements pursuant to this section and is received at pool plants; or

(c) Diverted to a nonpool plant(s) as the milk of a dairy farmer who is not a member of a cooperative association by a handler in his capacity as the operator of a pool plant from which the quantity of nonmember milk so diverted does not exceed 10 percent of the total of such quantity and other nonmember milk which meets the health requirements pursuant to this section and is received at the pool plant.

§ 902.22 [Amendment]

4. In § 902.22(j) (2) insert after the reference § 902.71 the reference "or § 902.72".

5. Replace § 902.40 and § 902.41(a) with the following:

§ 902.40 Skim milk and butterfat to be classified.

All skim milk and butterfat received within the month at pool plants which is required to be reported pursuant to § 902.30 shall be classified by the market administrator in accordance with the provisions of §§ 902.41 through 902.46. If any of the water contained in the milk from which a product is made is removed

before the product is utilized or disposed of by a handler, the pounds of skim milk used or disposed of in such product shall be considered to be an amount equivalent to the nonfat milk solids contained in such product plus all the water originally associated with such solids.

§ 902.41* Classes of utilization.

Subject to the conditions set forth in §§ 902.42 through 902.46 the classes of utilization shall be as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of (other than in hermetically sealed containers) in fluid form (or as frozen concentrated milk) for human consumption as milk, flavored milk, skim milk, flavored skim milk, cultured skim milk, buttermilk, concentrated milk, reconstituted milk or skim milk, fortified milk or skim milk (except that any products which have been fortified by the addition of nonfat milk solids shall be Class I milk in an amount equal only to the weight of an equal volume of milk, skim milk or cream of the same butterfat content); cream (except aerated cream and sour cream) including any mixture of cream and milk or skim milk (except eggnog) disposed of for consumption in fluid form; and

(2) Not specifically accounted for as Class II milk.

§ 902.41 [Amendment]

6. In § 902.41(b) delete the word "and" prior to subparagraph (6), change the period at the end thereof to a semicolon and add the following: "(7) disposed of in bulk to any commercial food establishment for use on the premises in the manufacture of soup, candy, bakery products, or any other nondairy commercial food product: *Provided*, That such establishment does not dispose of any product designated as Class I milk pursuant to § 902.41(a) (1); and (8) the weight of skim milk in fortified fluid milk products which is excepted from Class I milk pursuant to paragraph (a) (1) of this section."

§ 902.44 [Amendment]

7. Replace § 902.44(e) with the following:

(e) As Class I milk (except that contained in cream which is moved to a nonpool plant and classified as Class II milk pursuant to paragraph (f) of this section) if transferred or diverted in bulk in the form of milk, skim milk or cream, to a nonpool plant, other than an approved plant, located 300 miles or more from the zero milestone in Washington, D.C.

(f) As Class I milk if transferred or diverted in bulk form as cream to a nonpool plant, other than an approved plant, located 300 miles or more from the zero milestone in Washington, D.C., unless the transferor-handler:

(1) Claims classification as Class II milk;

(2) Establishes that (i) such cream was transferred without Grade A certification, (ii) each container was tagged or labeled to show that the contents were for manufacturing use only, and (iii)

the shipment was invoiced accordingly, and

(3) Gives sufficient notice to the market administrator to allow him to verify the conditions of shipment.

§ 902.52 [Correction]

8. In F.R. Doc. 59-3837, appearing at page 3650 of the issue for Wednesday, May 6, 1959, the reference in the proviso under § 902.52 should read "§ 902.46(b)" instead of "§ 92.46(b)".

Effective date: November 1, 1961.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Issued at Washington, D.C., on October 26, 1961.

JAMES T. RALPH,
Assistant Secretary.

[F.R. Doc. 61-10320; Filed, Oct. 30, 1961; 8:48 a.m.]

[Milk Order No. 3]

PART 903—MILK IN ST. LOUIS, MISSOURI, MARKETING AREA

Order Suspending Certain Provisions

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and of the order regulating the handling of milk in the St. Louis, Missouri, marketing area (7 CFR Part 903), it is hereby found and determined that:

(a) The following provisions of the order, relating to the qualification of country plants as pool plants, no longer tend to effectuate the declared policy of the Act for the month of October, 1961:

(1) In the opening paragraph of § 903.10(b)—"no less than 50 percent of"; and

(2) § 903.10(b) (1).

(b) Notice of proposed rule making public procedure thereon, and 30 days notice of effective date hereof are impractical, unnecessary, and contrary to the public interest in that:

(1) This suspension order does not require of persons affected substantial or extensive preparation prior to effective date;

(2) This suspension order is necessary to reflect current marketing conditions and to maintain orderly marketing conditions in the marketing area;

(3) A hearing to review § 903.10(b) is now under consideration to give all interested parties opportunity to present evidence in determining necessary amendment action for the future;

(4) This suspension order will permit cooperative associations to maintain the pool status of certain country plants for the month of October 1961 and, thus, insure the participation of their producer members in the marketwide pool; and

(5) Handlers of a substantial volume of the producer milk on the market have also requested suspension of these provisions.

Therefore, good cause exists for making this order effective upon publication in the FEDERAL REGISTER.

It is therefore ordered, That the aforesaid provisions of the order are hereby suspended for the month of October 1961.

Effective date: Upon publication in the FEDERAL REGISTER.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Signed at Washington, D.C., on October 26, 1961.

JAMES T. RALPH,
Assistant Secretary.

[F.R. Doc. 61-10319; Filed, Oct. 30, 1961; 8:48 a.m.]

[Milk Order No. 27]

PART 927—MILK IN NEW YORK-NEW JERSEY MARKETING AREA

Order Amending Order

§ 927.0 Findings and determinations.

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of the said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the New York-New Jersey marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest;

(3) The said order as hereby amended, regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

(b) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in section 608c(9) of the Act) of more than 50 percent of the milk, which is marketed within the marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order, amending the order, is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the order as hereby amended; and

(3) The issuance of the order amending the order is approved or favored by at least two-thirds of the producers who participated in a referendum and who during the determined representative period was engaged in the production of milk for sale in the marketing area.

Order relative to handling. The order is hereby amended as follows:

1. Delete § 927.6 and substitute therefor the following:

§ 927.6 Producer.

"Producer" means any dairy farmer whose milk is delivered at the farm into a tank mounted on a truck or trailer for a handler who has included such farm in a pool bulk tank unit, or any dairy farmer whose milk is delivered direct from farm to pool plant but is not put into a tank truck prior to such delivery: *Provided*, That milk delivered by a dairy farmer shall not be considered to be delivered by a producer (a) if such milk is delivered by other than tank truck direct to a nonpool plant or is delivered in bulk at the farm to a handler who does not include such farm in a pool bulk tank unit of such handler, or (b) if such milk is first received at a pool plant and otherwise would be considered producer milk under another order issued pursuant to the Act and all of the milk in such pool plant which would otherwise be considered producer milk under such other order is assigned to Class III, or (c) if such milk is first received at a pool plant and otherwise would be considered producer milk under another order and any such milk assigned to Class I-A or Class II would be subject to the rates specified in § 927.83 (b) (2), or (d) if such milk is first received at a pool plant and otherwise would be considered producer milk under another order and any such milk assigned to Class I-A or Class II would be priced at the lowest class price under such other order, or (e) if such milk is delivered by a bulk tank unit direct to a nonpool plant and such milk is defined as producer milk under another order issued pursuant to the Act, or (f) when delivered by tank truck to a handler during any of the months of December through June if any milk of such dairy farmer were caused by the handler to become producer milk under another order issued pursuant to the Act during any of the preceding months of July through November.

2. Amend that portion of § 927.7 preceding paragraph (b) to read as follows:

§ 927.7 Handler.

"Handler" means (a) any person who engages in the handling of milk or products therefrom, which milk was received at a pool plant, at a farm included in a pool bulk tank unit, or at a plant approved by any health authority as a source of milk for the marketing area,

3. Amend § 927.7(c) to read as follows:

(c) Any cooperative association with respect to milk which it causes to be delivered from producers to any other handler for the account of such association and for which such association receives payment.

4. Add a new § 927.11 to read as follows:

§ 927.11 Farm.

"Farm" means the production facilities and resources supplying milk to a milk house of a dairy farmer. The location of the farm shall be deemed to be the same as the location of the milk house, and in the event of a change in the location of the dairy farmer's milk house, any question as to whether milk received from the new milk house is from the same or a different farm shall be determined by the market administrator.

5. Add a new § 927.12 to read as follows:

§ 927.12 Pool bulk tank unit.

"Pool bulk tank unit" means a bulk tank unit established pursuant to § 927.24 and which meets the requirements of a pool bulk tank unit pursuant to such section.

6. Change the center heading "Pool Plants" to "Pool Plants and Bulk Tank Units" and add a new § 927.24 as follows:

§ 927.24 Bulk tank units.

Any handler receiving milk at farms in a tank truck shall establish such farms in one or more bulk tank units, each consisting of one or more farms, in accordance with provisions of this section. Any handler who receives milk at a pool plant or a plant distributing milk in the marketing area which is delivered from a farm to such plant in a tank truck shall be deemed to have received such milk from a bulk tank unit, pool or nonpool, and any handler who receives bulk milk from a farm in a tank truck containing pool bulk tank milk shall be deemed to have received such milk from a farm of a bulk tank unit either pool or nonpool.

(a) Handlers who may establish, maintain and be responsible for pool bulk tank units are as follows:

(1) A handler who operates a pool plant;

(2) A cooperative handler who does not operate a plant but who receives milk from farms in a tank truck and delivers such milk to plants of other handlers: *Provided*, That such cooperative must meet the definition of a cooperative set forth in § 927.81(a) (1).

(b) The handler may establish the bulk tank units in any manner chosen by him, subject to the following limitations:

(1) Each bulk tank unit shall have a headquarters where the basic record of receipts and butterfat tests of milk from each farm are maintained and where there is maintained the basic record of each receipt and each delivery of milk by each tank truck receiving milk from farms of the bulk tank unit and related details with respect to the movement of such milk.

(2) Each bulk tank unit shall be given a name indicating the general geographic

area in which farms comprising such bulk tank unit are located.

(3) The handler shall declare whether each bulk tank unit is to be operated as a pool bulk tank unit or a nonpool bulk tank unit. Farms from which the milk is to be pooled shall be established in a separate unit from those which are not to be pooled.

(4) Farms in the area specified in paragraph (e) of this section shall be in bulk tank units separate from farms in the area specified in paragraph (f) of this section.

(c) Except as set forth in subparagraphs (1) through (4) of this paragraph, a handler may declare that a bulk tank unit is to be operated as a pool bulk tank unit and at any time may add a farm to a pool bulk tank unit: *Provided*, That the milk of such unit or farm is delivered to a pool plant on the first day on which it is to be pooled and is under full approval for fluid use by the health authority or authorities approving such plant.

(1) If the unit is a declared nonpool bulk tank unit or if the farm is a part of a declared nonpool bulk tank unit of such handler, the unit or farm may be changed to a pool status only beginning the first day of a month upon notice to the market administrator by not later than the 10th day of such month. If the notice is filed after the 10th day of such month, the effective date shall be the first day of the following month.

(2) In the period of December through June, no new pool bulk tank unit may be established, no nonpool bulk tank unit may be declared to be a pool bulk tank unit, and no farm may be added to a pool bulk tank unit if the handler caused, as specified in paragraph (d) of this section, any pool bulk tank unit or any farm of a pool bulk tank unit to become nonpool in the period of July through November immediately preceding: *Provided*, That this limitation shall not prevent the handler from including in a pool bulk tank unit a farm which for the first time has converted from can delivery to bulk tank delivery and from which the handler received as pool milk all milk delivered by such farm in cans for a period of 30 days immediately preceding: *Provided further*, That except in the case set forth in paragraph (d) (3) of this section, this subparagraph shall not be applicable if the farm which is caused to become nonpool thereby becomes a producer farm under another order with a market-wide pool issued pursuant to the Act.

(3) No farm which was caused to become nonpool may be made a part of a pool bulk tank unit by a handler set forth in subdivisions (i) through (iv) of this subparagraph until after the passage of a complete April-May-June period following the time such farm was caused to become nonpool:

(i) The handler who caused the farm to become nonpool.

(ii) The handler or other person who received the milk as nonpool milk.

(iii) A handler who is substantially under the same management, control, or ownership as the handler or other

person set forth in subdivision (i) or (ii) of this subparagraph.

(iv) A handler who receives the milk through arrangement with the handler or other person set forth in subdivision (i), (ii), or (iii) of this subparagraph.

(4) A handler may transfer a farm from one pool bulk tank unit to another of his pool bulk tank units on the first day of any month upon notice to the market administrator by not later than the 10th day of such month.

(d) A handler may cause a pool bulk tank unit or a farm which is a part of a pool bulk tank unit to become nonpool by the methods set forth in subparagraphs (1) through (4) of this paragraph: *Provided*, That the failure of a bulk tank unit to meet the pool requirements set forth in paragraph (f) of this section shall not be considered for purposes of this paragraph to be a change of pool status caused by the handler.

(1) The handler may change the status of a declared pool bulk tank unit to a declared nonpool bulk tank unit effective the first day of any month upon notice to the market administrator by not later than the 10th day of such month. If the notice is filed after the 10th day of the month, the effective date shall be the first day of the following month.

(2) The handler may transfer a farm from a pool bulk tank unit to a nonpool bulk tank unit effective the first day of any month upon notice to the market administrator by not later than the 10th day of such month. If the notice is filed after the 10th day of the month, the effective date shall be the first day of the following month.

(3) The handler may so operate a bulk tank unit located in the area specified in paragraph (e) of this section that its pool status is cancelled pursuant to § 927.27.

(4) The handler may arrange for the milk of a farm in his pool bulk tank unit to be delivered to another person as nonpool milk. Any delivery of milk by a farm in a handler's pool bulk tank unit to another person as nonpool milk shall be considered to have been arranged by such handler unless such handler can establish that such other person is not substantially under the same management, control, or ownership as such handler and that such handler was in no way a party to such nonpool delivery.

(e) A declared pool bulk tank unit must be operated to meet the requirements set forth in § 927.26 if the farms of such unit are located in the following area: New York; New Jersey; the counties of Addison, Rutland, and Bennington in Vermont; the county of Berkshire in Massachusetts; or in Pennsylvania outside the counties of Adams, Bedford, Berks, Blair, Centre, Chester, Clinton, Columbia, Cumberland, Dauphin, Delaware, Franklin, Fulton, Huntingdon, Juniata, Lancaster, Lebanon, Mifflin, Montgomery, Montour, Northumberland, Perry, Philadelphia, Schuylkill, Snyder, Union, and York. Failure to meet such requirements shall make such declared pool bulk tank unit subject to suspension and cancellation pursuant to the procedure set forth in § 927.27. This para-

graph shall not be applicable to a cooperative handler specified in paragraph (a) (2) of this section until such handler has operated a pool bulk tank unit for 12 consecutive months. Any handler who in the period of October, November, and December 1960 operated a plant which was a pool plant on the basis of either of the first two provisos in § 927.25 and who establishes a pool bulk tank unit made up of farms outside of the area set forth in this paragraph, which pool bulk tank unit is exempt from the requirements of paragraph (f) of this section, must operate such bulk tank unit to meet the requirements set forth in § 927.26 and such bulk tank unit shall be subject to suspension and cancellation of designation pursuant to § 927.27.

(f) A declared pool bulk tank unit made up of farms located outside the area specified in paragraph (e) of this section or a declared pool bulk tank unit made up of farms specified in paragraph (e) of this section and operated by a cooperative handler specified in paragraph (a) (2) of this section until such handler has operated a pool bulk tank unit for 12 consecutive months, shall be a pool bulk tank unit in the months of July through March if at least 25 percent of the milk in such bulk tank unit is delivered in such month to pool plants, and shall be a pool bulk tank unit in the months of April through June only if 60 percent of the milk of such unit was received at pool plants during the period of October through December immediately preceding or if such handler received no milk of such unit or from farms of such unit in the preceding October through December: *Provided*, That any handler who, during the period October, November, and December 1960, operated a plant which was a pool plant on the basis of either of the first two provisos in § 927.25 may establish one or more pool bulk tank units made up of farms located outside the area specified in paragraph (e) of this section if milk from such farms was delivered as producer milk in the period of October, November, and December 1960 to a pool plant of such handler designated pursuant to § 927.25 and such units shall be exempt from the provisions of this paragraph. Farms may be added to such bulk tank units if such farms delivered milk in the period October, November, and December 1960 to a pool plant of such handler designated pursuant to § 927.25 and if such farms were not caused pursuant to paragraph (d) of this section to become nonpool subsequent to the effective date of this provision. Any pool bulk tank unit established pursuant to this proviso shall be required to meet the conditions set forth in this paragraph to be a pool bulk tank unit at any time subsequent to a time when the handler causes such bulk tank unit to become nonpool pursuant to paragraph (d) of this section.

(g) Any bulk tank unit declared to be a pool bulk tank unit shall be designated a pool bulk tank unit in any month (1) if the handler is qualified in such month pursuant to paragraph (a) of this section, (2) if such bulk tank unit meets all the requirements of this section applicable to it to be a pool bulk tank unit, or

(3) if the designation of such bulk tank unit has not been cancelled pursuant to § 927.27.

(h) Each handler shall report to the market administrator, not later than the 20th day of the month in which this paragraph becomes effective, the name and headquarters of each bulk tank unit established by him, the identification of the farms included in each unit, and his declared status (pool or nonpool) of each bulk tank unit. Thereafter, each handler shall report by not later than the 10th day of the month any changes in bulk tank units during the preceding month and as of the first day of such month.

(i) Whenever the market administrator finds that a handler has received bulk tank milk from a farm required to be included in an established bulk tank unit but which has not been so included, he shall tentatively assign such farm to a bulk tank unit and promptly notify the handler of such action. Unless otherwise requested by the handler within 10 days of such notice, the tentative assignment by the market administrator will become final.

(j) Whenever the market administrator finds that a handler has caused milk to become nonpool pursuant to paragraph (d) (4) of this section he shall promptly notify the handler of such finding. Within 10 days of such notice the handler may, except as to any such milk pooled under another order issued pursuant to the Act, (1) make a written claim that the failure to include the milk involved as pool milk was an error and, in such event, the market administrator shall pool such milk and rescind his finding, or (2) make a written offer to submit proof that he had not caused such milk to become nonpool. In the latter event, the market administrator shall examine such proof and shall either rescind his original finding or confirm it. Failure to respond to the market administrator's notice shall be deemed to confirm the finding.

(k) The market administrator shall publicly announce the names of handlers establishing pool bulk tank units and the names and headquarters of such bulk tank units. He shall also publicly announce any change in the pool status of such bulk tank units, and the names of handlers who are ineligible to add farms to a pool bulk tank unit under the terms set forth in § 927.24(c) (3).

7. Amend that portion of § 927.26 preceding the proviso in paragraph (b) to read as follows:

§ 927.26 Operating requirements.

The person operating a pool plant designated pursuant to §§ 927.25 or 927.28 or a declared pool bulk tank unit consisting of farms in the area specified in § 927.24(e) shall meet each of the following requirements:

(a) Be willing to dispose of as Class I-A milk in the marketing area milk received at the plant or on the bulk tank unit from dairy farmers.

(b) Keep such control over the sanitary conditions under which milk received at the plant or on the bulk tank unit is produced and handled that the

milk can meet the requirements of a source of milk for the marketing area.

§ 927.27 [Amendment]

8. Amend § 927.27 by inserting after the section reference "927.28" in the first sentence thereof the words "or of a declared pool bulk tank unit consisting of farms in the area specified in § 927.24 (e)".

9. Amend § 927.27(c) by inserting the words "or bulk tank unit" immediately after the word "plant" wherever such word appears.

10. Amend § 927.27(d) to read as follows:

(d) In the case of suspension pursuant to this section of the designation of one or more plants or bulk tank units for failure to meet the requirements of § 927.26 (a) or (c), the handler operating such plant or bulk tank unit may select, prior to the effective date of such suspension, one or more other pool plants or pool bulk tank units consisting of farms in the area specified in § 927.24(e) for suspension in lieu thereof if, during the preceding month, the quantity of milk received from producers at such substituted plants or bulk tank units was not less than the quantity of milk received from producers at the plants or bulk tank units named for suspension. The handler may also select the order in which plant or bulk tank unit designations are to be cancelled in the event of a later determination by the Secretary cancelling the designation of some but not all of the plants or bulk tank units suspended.

11. Amend § 927.27(e) by adding the words "or bulk tank unit" immediately after the first word "plant" and deleting the words "of the plant as a pool plant" immediately after the second word "designation".

12. Amend § 927.27(f) by inserting the words "or bulk tank unit" immediately after the first word "plant" and inserting the words "or pool bulk tank unit" immediately preceding the proviso.

13. Add the words "or the bulk tank unit meets the requirements of § 927.24 (g)" in the parenthetical phrase of the proviso of § 927.27(f) immediately after the section reference "927.29".

14. Amend § 927.27(g) by adding the words "or pool bulk tank unit" immediately after the first word "plant".

15. Amend § 927.27(g) (1) and (2) by adding the words "or pool bulk tank units consisting of farms in the area specified in § 927.24(e)" immediately after the section reference "927.28".

16. Amend § 927.27(g) (3) by adding the words "or bulk tank unit" after each of the words "plant" appearing before the proviso, deleting the words "pool plant" in the proviso, and adding the words "or bulk tank unit" after the second word "plant" in the proviso.

17. Amend § 927.27(h) by adding "or pool bulk tank unit" after the first word "plant".

18. Amend § 927.27(h) (1) and (2) by adding the words "or pool bulk tank unit" after the first word "plant", adding the words "or bulk tank unit" after the

second word "plant", and deleting the words "at all pool plants".

19. Amend § 927.27(h) (3) by adding the words "or bulk tank unit" after the first word "plant", adding the words "or pool bulk tank unit" after the second word "plant", and deleting the words "of such plant" after the word "designation".

20. Amend § 927.27(h) (4) by adding the words "or bulk tank units" after the first word "plants" and adding the words "and pool bulk tank units" after the second word "plants".

§ 927.29 [Amendment]

21. Amend § 927.29(a) by adding the words "and bulk tank units" after the words "dairy farmers" and adding the following proviso: "Provided, That at the option of the handler the plant shall not be a pool plant if less than 25 percent of such milk from other than pool bulk tank units is classified in Class I-A."

22. Amend § 927.29(b) by adding the words "or bulk tank units" after the first words "dairy farmers", adding the words "and bulk tank units" after the words "dairy farmers" where they appear the second and third times, and adding the following proviso: "Provided, That at the option of the handler the plant shall not be a pool plant if less than 10 percent of such milk from other than pool bulk tank units is classified in Class I-A."

23. Amend § 927.29(c) by adding the words "and bulk tank units" after the words "dairy farmers".

24. Amend § 927.29(d) by adding the words "and bulk tank units" after the words "dairy farmers" appearing before the first proviso, and by adding the words "and bulk tank units" after the word "farmers" wherever such word appears in the second proviso.

§ 927.30 [Amendment]

24a. Amend § 927.30 by deleting the first word "all" and substituting therefor the phrase "all milk received from producers, all milk intermingled with milk from producers, and all"; add after the word "plant" as it last appears in such section the words "or tank truck".

25. Delete that portion of § 927.33 preceding the proviso prior to paragraph (a), and substitute the following:

§ 927.33 Plant or tank truck at which classification is to be determined.

Classification shall be determined at the plant at which milk is received from dairy farmers or from bulk tank units, except that milk received in a tank truck at farms which is not delivered to a plant shall be classified in accordance with the form in which it is moved from the tank truck.

26. Amend § 927.33(b) by adding the words "or bulk tank units" immediately after the words "dairy farmers".

§ 927.34 [Amendment]

27. Amend § 927.34 by adding the words "or bulk tank unit operation" after the words "plant operation".

§ 927.35 [Amendment]

28. Amend § 927.35(a) by adding the words "pool bulk tank units" after the

first words "pool plants" and adding, in the proviso, the words "or from pool bulk tank units" immediately before the words "shall be assigned".

29. Amend § 927.35(a) (1) by adding the words "or bulk tank units" after the words "dairy farmers".

30. Amend § 927.35(a) (2) by adding a new subdivision (v) to read as follows:

(v) Milk received from declared pool bulk tank units.

31. Amend § 927.35(b) to read as follows:

(b) After the assignments prescribed in (a) of this section, milk from pool plants, from pool bulk tank units, or from producers shall be assigned as far as possible to Class I-B when such classification is based upon delivery to a plant or purchaser in a marketing area defined in another order issued pursuant to the Act in the sequence set forth in subparagraphs (1) through (3) of this paragraph: *Provided*, That if the plant (at which assignment is being made) is a poolplant, milk classified and priced under another order shall be assigned to such Class I-B in the marketing area defined pursuant to such other order prior to the assignment otherwise specified in this paragraph.

(1) Class I-B milk in a marketing area regulated by an order with individual-handler pools,

(2) Class I-B milk in the marketing area defined in Part 1019 of this chapter or to a pool plant pursuant to such part, and

(3) Class I-B milk in other marketing areas.

32. Renumber § 927.35 (c), (d), (e), (f), and (g) to (d), (e), (f), (g), and (h), respectively, and add a new § 927.35 (c) to read as follows:

(c) After assignments prescribed in paragraphs (a) and (b) of this section, milk from pool bulk tank units, shall be assigned as far as possible to Class I-B milk. Milk received from nonpool bulk tank units shall be assigned as far as possible to milk classified as Class III subject to the butter-cheese adjustment and then to other milk classified as Class III.

33. Amend new § 927.35(d) by changing the paragraph references from "(a) and (b)" to "(a), (b), and (c)".

34. Amend new § 927.35(e) by changing the paragraph references to read "(a) through (d)"; by adding the words "from pool bulk tank units" immediately after the first words "from producers"; and adding the words "from nonpool bulk tank units" after the words "not producers".

35. Amend new § 927.35(f) by changing the paragraph references to read "(a) through (e)"; by adding the words "from pool bulk tank units" after the words "from producers"; and adding the words "from nonpool bulk tank units" after the words "not producers".

§ 927.36 [Amendment]

36. Amend § 927.36 by adding a third proviso immediately prior to paragraph (a) to read as follows: "*Provided further*, That if the market administrator

finds it necessary to promulgate formal rules with respect to bulk tank units, he shall follow the procedure set forth in this section."

§ 927.37 [Amendment]

36a. Add after the word "plant" in both the opening sentence of § 927.37 and in paragraph (a) thereof the words "or tank truck"; add after the word "plant" as it first appears in § 927.37(b) the words "or tank truck"; and add after the word "plant" as it first appears in § 927.37(d) (4) the words "or tank truck".

§ 927.40 [Amendment]

37. Amend § 927.40 by deleting the second sentence thereof and substituting therefor the following: "Any handler who purchases or receives during any month milk from a cooperative association of producers which is also a handler but which does not operate the plant or the bulk tank unit receiving the milk from producers shall on or before the 15th day of the following month pay such cooperative association in full for such milk at not less than the minimum class prices pursuant to this section subject to the differentials and adjustments set forth in §§ 927.41 through 927.44 and § 927.71(c) applicable at the location where the milk is received from producers. Any handler who purchases or receives during any month milk from a cooperative association of producers which is also a handler and which operates the plant or the bulk tank unit receiving the milk from producers shall on or before the 15th day of the following month pay such cooperative association in full for such milk at not less than the minimum class prices pursuant to this section subject to the differentials and adjustments set forth in §§ 927.41 through 927.44 and § 927.71(c) applicable at the plant at which the milk is first received."

38. Amend § 927.42 preceding the table to read as follows:

§ 927.42 Transportation differentials.

The class prices set forth in § 927.40 and the fluid skim differential set forth in § 927.44 shall be subject to a transportation differential determined in accordance with paragraphs (a) through (d) of this section.

(a) The market administrator shall determine a freight zone for each pool plant and for each plant at which milk or milk products subject to the provisions of §§ 927.83 and 927.84 is received from dairy farmers or is first found. Such freight zone shall be the shortest highway mileage from the plant to the nearest of the following points as computed by the market administrator from data contained in Mileage Guide No. 5, without supplements, issued on July 20, 1949, effective August 21, 1949, by the Household Goods Carriers' Bureau, Agent, Washington, D.C.: Mount Vernon or Yonkers in the State of New York, Tenafly, Glen Ridge, East Orange, Elizabeth, Hackensack, Hillside, Irvington, or Passaic in the State of New Jersey. The freight zone for plants located in New York City, Nassau, and Suffolk

Counties in the State of New York or in Essex, Hudson, and Union Counties in the State of New Jersey shall be in the 1-10 mile zone. The market administrator shall publicly announce the freight zones for pool plants.

(b) The market administrator shall determine and publicly announce a freight zone for each minor civil division (township, borough, incorporated village, or city) within the nearby differential area or in which farms included in a pool bulk tank unit are located by computing the shortest highway mileage distance from the nearest point in the minor civil division to the nearest point specified in paragraph (a) of this section, using the mileage guide specified in such paragraph supplemented by United States Geological Survey maps. In states where the smallest governmental unit except for incorporated cities or villages is the county, a zone for the county shall be determined in the same manner as for minor civil divisions. The zone for each farm shall be the zone of the minor civil division or county in which the farm is located.

(c) The differential rates applicable at plants shall be as set forth in the following schedule:

39. Amend § 927.42 by adding the following paragraph after the table therein:

(d) The differential rate applicable to each pool bulk tank unit shall be computed each month as follows: multiply the volume of milk received from farms in each zone by the rate for that zone as set forth in the schedule in paragraph (c) of this section, add the resulting values for all zones of the bulk tank unit, divide such sum by the total volume of milk received by the bulk tank unit and round to the nearest 0.1 cent. Rates shall be computed separately for columns B and C of such schedule.

§ 927.43 [Amendment]

40. Amend § 927.43 by deleting that portion thereof beginning with the second proviso and substituting therefor the following: "Provided further, That if such milk is received from producers at a plant or in a bulk tank unit with a minus Class III transportation differential of more than four cents, there shall be deducted from the amount so credited an amount computed by multiplying the volume of such milk by a rate per hundredweight equal to the amount by which the Class III differential for the plant or bulk tank unit exceeds four cents. With respect to each plant or bulk tank unit at which milk received from producers is reported by the handler to have been utilized (either at the plant where received or at another plant), in an amount exceeding an average of 4,000 pounds per day in the manufacture of butter or of Cheddar, American Cheddar, Colby, washed curd, or part skim Cheddar cheese, the market administrator shall publicly disclose (a) the location of the plant at which the milk was received from producers or the name of the bulk tank unit, and (b) the name of the handler operating such plant or bulk tank unit. Such public disclosure shall be made monthly on the basis of handlers'

monthly reports, and may be made more frequently on the basis of such other utilization reports as may be required by the market administrator."

§ 927.50 [Amendment]

41. Amend the first sentence in § 927.50 by adding the words "at each of his pool bulk tank units" after the words "pool plants"; at the end of the second sentence in § 927.50 replace the period (.) with a comma (,) and add the following phrase "except that the report of a pool plant which receives milk from bulk tank units but not direct from producers shall be submitted at a time specified by the market administrator."

42. Amend § 927.50(a) by adding the words "from bulk tank units" after the words "dairy farmers".

43. Amend § 927.50(b) by adding the words "or bulk tank unit" after the words "plant" in each of the places where such word appears.

§ 927.53 [Amendment]

43a. In § 927.53(a) add the words "or nonpool bulk tank units" after the word "plants" as it last appears in such paragraph.

44. Amend § 927.53(d) by adding the words "and pool bulk tank units" after the word "plants".

§ 927.65 [Amendment]

45. Amend § 927.65(a) by adding at the end thereof the words "or pool bulk tank unit";

46. Amend § 927.65(c) by adding the words "or bulk tank unit" after the word "plant" in each place where such word appears.

47. Amend § 927.65(d) to read as follows:

(d) Deduct, in the case of each plant or bulk tank unit nearer than the 201-210-mile zone, and add, in the case of each plant or bulk tank unit farther than the 201-210-mile zone, the sum obtained by multiplying the milk received from producers at plants by the zone differential set forth in column B of the schedule in § 927.42(c) applicable at the plant, and for milk in bulk tank units, by the weighted average column B differential computed pursuant to § 927.42(d) applicable to the bulk tank unit.

48. Amend § 927.65(g) to read as follows:

(g) Add together the handler's net pool obligation for all plants and bulk tank units.

§ 927.70 [Amendment]

49. Amend § 927.70 by adding after the first proviso therein the following: "Provided further, That for milk received in a bulk tank unit there may be no charge to the producer for service incident to moving the milk off the farm if such charge reduces the net price to the farmer below that specified in this section."

§ 927.71 [Amendment]

50. Amend § 927.71(a) by changing the section reference from "927.42" to "927.42(c)" and adding to the paragraph (a) the following: "or, in the case of

bulk tank units, the zone of the farm at which the milk is received."

51. Amend § 927.71(b)(1) preceding the proviso to read as follows:

(1) A zone for each farm within the nearby differential area shall be computed as specified in § 927.42(b):.

52. Amend § 927.71(c) by changing that portion preceding the table to read as follows:

(c) *Direct delivery differentials.* For milk received from producers, and from cooperative associations pursuant to § 927.24(a)(2), at plants located in the areas specified in the following table, the handler shall pay, in addition to that required by other provisions of this section, the amounts set forth below:

§ 927.83 [Amendment]

52a. Add at the end of the caption of § 927.83 the words "and nonpool bulk tank units."

53. Amend § 927.83(a)(1) to read as follows:

(1) It was derived from milk received at a plant or at farms in a bulk tank unit from dairy farmers not defined as producers pursuant to § 927.6 or received from a handler designated as a producer-handler pursuant to § 927.15.

54. Amend § 927.83(b)(2) by deleting that portion prior to the words "is not regulated" and by substituting the following: "If the first plant which received the milk from which the milk or milk product is derived is located in the 401-425 mile zone or in some zone nearer the marketing area, and the handling of such milk * * *"

55. Amend § 927.83(b)(3) by deleting that portion prior to the words "is not regulated", and by substituting the following: "If the first plant which received the milk from which the milk or milk product is derived is located farther from the marketing area than the 401-425 mile zone, and the handling of such milk * * *"

56. Amend § 927.90 by adding the words "or at farms in a bulk tank unit" after the first word "plants".

Issued at Washington, D.C., on October 26, 1961.

JAMES T. RALPH,
Assistant Secretary.

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[Milk Order No. 35]

**PART 935—MILK IN NEBRASKA-
WESTERN IOWA MARKETING AREA**

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935.94	Agents.
935.95	Separability of provisions.

AUTHORITY: §§ 935.0 to 935.95 issued under secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.

§ 935.0 Findings and determinations.

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued

amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreements and to the orders regulating the handling of milk in the Omaha-Lincoln-Council Bluffs and Platte Valley, Nebraska, marketing areas. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest;

(3) The said order as hereby amended, regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

(4) All milk and milk products handled by handlers, as defined in the order as hereby amended, are in the current of interstate commerce or directly burden, obstruct, or affect interstate commerce in milk or its products; and

(5) It is hereby found that the necessary expense of the market administrator for the maintenance and functioning of such agency will require the payment by each handler, as his pro rata share of such expense, 3 cents per hundredweight or such amount not to exceed 3 cents per hundredweight as the Secretary may prescribe, with respect to: (i) Receipts at a pool plant of (a) producer milk (including that classified pursuant to § 935.44(e) and such handler's own production) and (b) other source milk allocated to Class I pursuant to § 935.46 (a) (2) or (3) and the corresponding steps of paragraph (b) of § 935.46; (ii) producer milk for which a cooperative association is the handler in excess of that delivered to the pool plants of other handlers; and (iii) the quantities of milk at handlers' nonpool plants as specified in § 935.62.

(b) *Additional findings.* It is necessary in the public interest to make this order amending the order effective not later than November 1, 1961. Any delay beyond that date would tend to disrupt the orderly marketing of milk in the marketing area.

The provisions of the said order are known to handlers. The recommended decision of the Deputy Administrator, Price and Production, Agricultural Stabilization and Conservation Service was issued August 3, 1961, and the decision of the Acting Secretary containing all amendment provisions of this order, was issued October 11, 1961. The changes effected by this order will not require extensive preparation or substantial alteration in method of operation for handlers. In view of the foregoing, it is hereby found and determined that good cause exists for making this order amending the order effective November 1, 1961, and that it would be contrary to the public interest to delay the effective date of this order for 30 days after its publication in the FEDERAL REGISTER. (Sec. 4(c), Administrative Procedure Act, 5 U.S.C. 1001-1011.)

(c) **Determinations.** It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in sec. 8c(9) of the Act) of more than 50 percent of the milk, which is marketed within the marketing area, to sign a proposed marketing agreement, tends to prevent the effectuation of the declared policy of the Act;

(2) The issuance of this order, amending the order, is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined in the order as herein amended; and

(3) The issuance of the order amending the order is approved or favored by at least two-thirds of the producers who participated in a referendum and who during the determined representative period were engaged in the production of milk for sale in the marketing area.

Order relative to handling. It is therefore ordered, that on and after the effective date hereof, the Omaha-Lincoln-Council Bluffs and Platte Valley, Nebraska, orders (Parts 935 and 1013) shall be merged under one order and the handling of milk in the consolidated and expanded marketing area, the Nebraska-Western Iowa marketing area, shall be in conformity to and in compliance with the terms and conditions of Order No. 35 as hereby amended, and the aforesaid order is hereby amended to read as follows:

DEFINITIONS

§ 935.1 Act.

"Act" mean Public Act No. 10, 73d Congress, as amended, and as re-enacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.).

§ 935.2 Secretary.

"Secretary" means the Secretary of Agriculture of the United States or any officer or employee of the United States authorized to exercise the powers and to perform the duties of the Secretary of Agriculture.

§ 935.3 Department.

"Department" means the United States Department of Agriculture or any other Federal agency authorized to per-

form the price reporting functions specified in this part.

§ 935.4 Person.

"Person" means any individual, partnership, corporation, association, or any other business unit.

§ 935.5 Cooperative association.

"Cooperative association" means any cooperative marketing association which the Secretary determines, after application of the association:

(a) Is qualified under the provisions of the Act of Congress of February 18, 1922, as amended, known as the "Cap-per-Volstead Act";

(b) Has full authority in the sale of milk of its members and is engaged in making collective sales of or marketing milk or its products for its members; and

(c) Has its entire activities under the control of its members.

§ 935.6 Nebraska-Western Iowa marketing area.

"Nebraska-Western Iowa marketing area", hereinafter called the "marketing area" means all of the territory within the counties of Harrison and Mills; and the townships of Boomer, Crescent, Garner, Hardin, Hazel Dell, Kane, Keg Creek, Lake, Lewis, Minden, Neola, Norwalk, Rockford, Silver Creek, Washington and York in Pottawattamie County, in the State of Iowa; and the counties of Adams, Boone, Buffalo, Burt, Butler, Cass, Clay, Colfax, Cuming, Custer, Dawson, Dodge, Douglas, Fillmore, Franklin, Frontier, Furnas, Gage, Gosper, Greeley, Hall, Hamilton, Harlan, Howard, Jefferson, Johnson, Kearney, Keith, Lancaster, Lincoln, Madison, Merrick, Nance, Nemaha, Nuckolls, Phelps, Otoe, Platte, Polk, Red Willow, Saline, Sarpy, Saunders, Seward, Sherman, Stanton, Thayer, Washington, Wayne, Webster, Valley and York, in the State of Nebraska; including territory within the boundaries of such counties which is occupied by Government (municipal, state, or Federal) reservations, installations, institutions, or other establishments.

§ 935.7 Producer.

"Producer" means any person, other than a producer-handler, who produces milk in compliance with the Grade A inspection requirements of a duly constituted health authority, and whose milk is (a) received at a pool plant, or (b) diverted as producer milk pursuant to § 935.14.

§ 935.8 Handler.

"Handler" means:

(a) Any person who operates a pool plant. In case a corporation with recognized divisions which are operated as separate business units operates two or more pool plants, each such division shall be the handler with respect to the pool plants it operates;

(b) Any person who operates a non-pool plant from which fluid milk products labeled Grade A are distributed on routes in the marketing area;

(c) Any cooperative association with respect to milk of its member producers diverted from a pool plant to a nonpool

plant for the account of such association; and

(d) A cooperative association with respect to milk of its member producers which is delivered from the farm to the pool plant of another handler in a tank truck owned and operated by, or under contract to, such cooperative association if the cooperative association notifies the market administrator and the handler to whom the milk is delivered, in writing prior to the first day of the month in which the milk is delivered, that it wishes to be the handler for the milk. In this case, the milk is received from producers by the cooperative association at the location of the plant to which it is delivered.

§ 935.9 Producer-handler.

"Producer-handler" means any person who is both a dairy farmer and the operator of a distributing plant, and who meets the qualifications specified in paragraphs (a) and (b) of this section:

(a) Receipts of fluid milk products at his plant are solely milk of his own production and from pool plants of other handlers; and

(b) The maintenance, care and management of the dairy animals and other resources necessary to produce the milk and the processing, packaging and distribution of the milk are the personal enterprise and the personal risk of such person.

§ 935.10 Distributing plant.

"Distributing plant" means a plant which is approved by an appropriate health authority for the processing or packaging of Grade A milk and from which any fluid milk product is disposed of during the month on routes in the marketing area.

§ 935.11 Supply plant.

"Supply plant" means a plant from which milk, skim milk, or cream, acceptable to an appropriate health authority for distribution in the marketing area under a Grade A label, is shipped during the month to a pool plant qualified pursuant to § 935.12.

§ 935.12 Pool plant.

"Pool plant" means a plant other than that of a producer-handler or a handler partially exempt pursuant to § 935.61, described in paragraph (a) or (b) of this section. If a portion of a plant is physically apart from the Grade A portion of such plant, is operated separately and is not approved by any health authority for the receiving, processing or packaging of any fluid milk product for Grade A disposition, it shall not be considered as part of a pool plant pursuant to this section.

(a) A distributing plant from which a volume of Class I milk not less than 50 percent of the Grade A milk received at such plant from dairy farmers, supply plants (exclusive of plants qualifying as pool plants pursuant to this paragraph), and cooperative associations pursuant to § 935.8(d), is disposed of during the month on routes and not less than 15 percent of such receipts are so disposed of in the marketing area; and

(b) A supply plant from which the volume of fluid milk products shipped

during the month to pool plants qualified pursuant to paragraph (a) of this section is not less than 50 percent of the Grade A milk received at such plant from dairy farmers and cooperative associations pursuant to § 935.8(d) during such month. A supply plant that qualifies as a pool plant each of the immediately preceding months of August through December (or that during each such month of 1961 before the effective date of this order shipped to pool plants under this part (Order No. 35) and/or Part 1013 of this chapter (Order No. 113) and/or to distributing plants newly regulated under this order 50 percent or more of its receipts of Grade A milk from dairy farmers), shall be a pool plant for the succeeding months of January through July, unless the plant operator requests the market administrator, in writing, that such plant not be a pool plant, such non-pool status to be effective the first month following such notice and thereafter until the plant qualifies as a pool plant on the basis of shipments.

§ 935.13 Nonpool plant.

"Nonpool plant" means any milk receiving, manufacturing, or processing plant other than a pool plant.

§ 935.14 Producer milk.

"Producer milk" of each handler means all skim milk and butterfat produced by producers:

(a) With respect to receipts at a pool plant:

(1) Received directly from such producers;

(2) Diverted from such pool plant to a nonpool plant for the account of the operator of the pool plant, subject to the limitations and conditions of paragraph (c) of this section; and

(3) That to be classified pursuant to § 935.44(e);

(b) With respect to additional receipts of a cooperative association:

(1) For which such cooperative association is the handler pursuant to § 935.8(c), subject to the limitations and conditions of paragraph (c) of this section; and

(2) For which the cooperative association is the handler pursuant to § 935.8(d);

(c) With respect to diversions to non-pool plants pursuant to (a) (2) and (b) (1) of this section:

(1) Such diversions may be without limit during the months of March through June, but not be for more than 16 days production of any producer during any other month and milk diverted in excess of this limit shall not be producer milk; and

(2) For the purpose of location adjustments pursuant to §§ 935.53 and 935.73, milk so diverted shall be priced at the location of the plant to which diverted.

§ 935.15 Other source milk.

"Other source milk" means all skim milk and butterfat contained in or represented by:

(a) Receipts during the month in the form of fluid milk products, except (1) fluid milk products received from pool plants, (2) producer milk, or (3) inventory at the beginning of the month; and

(b) Products other than fluid milk products from any source (including those produced at the plant) which are reprocessed or converted to another product in the plant during the month.

§ 935.16 Fluid milk product.

"Fluid milk product" means milk, skim milk, buttermilk, flavored milk, yogurt, milk drinks (plain or flavored), concentrated milk (frozen or fresh, except evaporated or condensed milk, and sterilized products packaged in hermetically sealed containers), cream, cultured sour cream, or any mixture in fluid form of milk or skim milk and cream (except ice cream mix, frozen desert mix, aerated cream products and eggnog).

§ 935.17 Route.

"Route" means any delivery (including delivery by a vendor or through a distribution point, or sale from a plant store) of a fluid milk product to retail or wholesale outlets other than a delivery (a) in bulk to a milk plant, or (b) a food processing plant pursuant to § 935.41(b) (3).

§ 935.18 Butter price.

"Butter price" means the simple average of the daily wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk creamery butter at Chicago as reported by the Department during the month.

MARKET ADMINISTRATOR

§ 935.20 Designation.

The agency for the administration of this part shall be a market administrator, selected by the Secretary, who shall be entitled to such compensation as may be determined by, and shall be subject to removal at the discretion of, the Secretary.

§ 935.21 Powers.

The market administrator shall have the following powers with respect to this part:

(a) To administer its terms and provisions;

(b) To receive, investigate and report to the Secretary complaints of violations;

(c) To make rules and regulations to effectuate its terms and provisions; and

(d) To recommend amendments to the Secretary.

§ 935.22 Duties.

The market administrator shall perform all duties necessary to administer the terms and provisions of this part, including but not limited to the following:

(a) Within 45 days following the date on which he enters upon his duties, or such lesser period as may be prescribed by the Secretary, execute and deliver to the Secretary a bond, effective as of the date on which he enters upon such duties and conditioned upon the faithful performance of such duties, in an amount and with surety thereon satisfactory to the Secretary;

(b) Employ and fix the compensation of such persons as may be necessary to enable him to administer its terms and provisions;

(c) Obtain a bond in a reasonable amount and with reasonable surety thereon covering each employee who handles funds entrusted to the market administrator;

(d) Pay out of the funds provided by § 935.86 the cost of his bond and of the bonds of his employees, his own compensation, and all other expenses, except those incurred under § 935.85, necessarily incurred by him in the maintenance and functioning of his office and in the performance of his duties;

(e) Keep such books and records as will clearly reflect the transactions provided for in this part, and upon request by the Secretary, surrender the same to such person as the Secretary may designate;

(f) Publicly announce, at his discretion, unless otherwise directed by the Secretary, by posting in a conspicuous place in his office and by such other means as he deems appropriate, the name of any person who, after the date upon which he is required to perform such acts, has not made reports or payments required by this part;

(g) Submit his books and records to examination by the Secretary and furnish such information and reports as may be requested by the Secretary;

(h) Prepare and disseminate publicly such statistics and information as he deems advisable and as do not reveal confidential information;

(i) Verify all reports and payments by each handler by audit, if necessary, of such handler's records and the records and facilities of any other handler or person upon whose utilization the classification of skim milk and butterfat for such handler depends;

(j) On or before the 12th day after the end of the month, report to each cooperative association, which so requests, the amount and class utilization of milk received by each handler from producers who are members of such cooperative association. For the purpose of this report, the milk so received shall be prorated to each class in the proportion that the total receipts of milk from producers by such handler were used in each class; and

(k) Publicly announce and notify each handler in writing on or before:

(1) The 10th day of each month the Class I milk price pursuant to § 935.51(a) and the Class I butterfat differential pursuant to § 935.52(a) for the current month, and the Class II milk price pursuant to § 935.51(b) and the Class II butterfat differential pursuant to § 935.52(b) for the preceding month, and (2) the 12th day after the end of each month, the uniform price pursuant to § 935.71, and the butterfat differential to be paid pursuant to § 935.72.

REPORTS, RECORDS AND FACILITIES

§ 935.30 Reports of receipts and utilization.

On or before the 7th day, excluding holidays, after the end of each month each handler shall report to the market administrator for such month in the detail and on forms prescribed by the market administrator as follows:

(a) Each handler operating pool plants shall report the quantities of skim milk or butterfat in:

(1) Receipts at each such plant in:

- (i) Producer milk, showing separately that to be classified pursuant to § 935.44

(e);

(ii) Fluid milk products received from other pool plants; and

(iii) Other source milk;

(2) Opening inventories of fluid milk products;

(3) The utilization in each class of the quantities required to be reported; and

(4) Such other information with respect to receipts and utilization as the market administrator may request;

(b) Each handler specified in § 935.8 (b) shall report as required in paragraph (a) of this section except that receipts in Grade A milk from dairy farmers shall be reported in lieu of those in producer milk; and

(c) Each cooperative association shall report with respect to milk for which it is a handler pursuant to § 935.8 (c) or (d) as follows:

(1) Receipts of skim milk and butterfat in producer milk;

(2) Utilization of milk for which it is the handler pursuant to § 935.8(c);

(3) The quantities delivered to each pool plant of another handler pursuant to § 935.8(d); and

(4) Such other information as the market administrator may require.

§ 935.31 Payroll reports.

On or before the 20th day of each month, each handler except one exempt pursuant to § 935.61 or one making payments pursuant to § 935.62(b), shall submit to the market administrator his producer payroll (or in the case of a handler making payments pursuant to § 935.62(a), his payroll for dairy farmers delivering Grade A milk) which shall show for each producer and for each cooperative association to which payment is made pursuant to § 935.80(d):

(a) The name and address of the producer, dairy farmer or cooperative association;

(b) The total pounds of milk received and the average butterfat content thereof;

(c) The location at which received, and for each producer whose milk was diverted to a nonpool plant, the number of days production diverted and the location of the nonpool plant; and

(d) The price, amount and date of payment with the nature and amount of any deductions.

§ 935.32 Other reports.

Each producer-handler and each handler exempt from regulation pursuant to § 935.61 and § 935.62(b) shall make reports to the market administrator at such time and in such manner as the market administrator may request.

§ 935.33 Records and facilities.

Each handler shall maintain and make available to the market administrator, or his representative, during the usual hours of business, such accounts and records of his operations, including those of any other person upon whose utiliza-

tion the classification of milk depends, and such facilities as, in the opinion of the market administrator, are necessary to verify or to establish the correct data with respect to:

(a) The receipts and utilization in whatever form of all skim milk and butterfat required to be reported pursuant to § 935.30;

(b) The weights and tests for butterfat and other contents of all milk and milk products received or utilized; and

(c) Payments to producers or cooperative associations.

§ 935.34 Retention of records.

All books and records required under this part to be made available to the market administrator shall be retained by the handler for a period of three years to begin at the end of the calendar month to which such books and records pertain: *Provided*, That if, within such three-year period the market administrator notifies the handler in writing that the retention of such records or of specific books and records is necessary in connection with the proceedings under section 8c(15)(A) of the Act or a court action specified in such notice, the handler shall retain such books and records or specified books and records, until further written notification from the market administrator. In either case the market administrator shall give further written notification to the handler promptly upon the termination of the litigation or when the records are no longer necessary in connection therewith.

CLASSIFICATION

§ 935.40 Skim milk and butterfat to be classified.

The skim milk and butterfat which are required to be reported pursuant to § 935.30 shall be classified each month by the market administrator, pursuant to the provisions of §§ 935.41 through 935.46. If any of the water contained in the milk from which a product is made is removed before the product is utilized or disposed of by a handler, the pounds of skim milk used or disposed of in such product shall be considered to be an amount equivalent to the nonfat milk solids contained in such product, plus all of the water originally associated with such solids.

§ 935.41 Classes of utilization.

Subject to the conditions set forth in §§ 935.43 through 935.46 the classes of utilization shall be as follows:

(a) *Class I milk*. Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product (including those reconstituted) except:

(i) Any product fortified with added solids shall be Class I in an amount equal only to the weight of an equal volume of a like unmodified product of the same butterfat content; and

(ii) As classified pursuant to paragraph (b) (2) and (3) of this section; or

(2) Not specifically accounted for as Class II utilization;

(b) *Class II milk*. Class II milk shall be all skim milk and butterfat:

(1) Used to produce any product other than a fluid milk product;

(2) Disposed of for livestock feed;

(3) Disposed of in bulk to a commercial food processing establishment for use in food products prepared for consumption off the premises;

(4) Used to produce frozen cream;

(5) Contained in inventory of fluid milk products on hand at the end of the month;

(6) The weight of skim milk in fluid milk products which is excepted from Class I milk pursuant to paragraph (a) (1) (i) of this section;

(7) In shrinkage of skim milk and butterfat, respectively, assigned pursuant to § 935.42(b) (1), but not to exceed the following: Two percent of milk received directly from producers, plus 1½ percent of milk received from pool plants of other handlers in bulk tank lots, plus 1½ percent of milk received from a cooperative association which is the handler for such milk pursuant to § 935.8 (d), (except that if the handler operating the pool plant files notice with the market administrator that he is purchasing such milk on the basis of farm weights, the applicable percentage shall be two percent) less 1½ percent of milk disposed of in bulk tank lots to other plants (except when the preceding exception hereof applies, the applicable percentage shall be two percent); and

(8) In shrinkage of other source milk.

§ 935.42 Shrinkage.

The market administrator shall allocate shrinkage over a handler's receipts as follows:

(a) Compute the total shrinkage of skim milk and butterfat, respectively, for each handler; and

(b) If a handler has receipts of other source milk, shrinkage shall be prorated between: (1) Skim milk and butterfat in pool milk in amounts respectively equal to 50 times the maximum amount that may be computed pursuant to § 935.41 (b) (7); and (2) skim milk and butterfat in other source milk.

§ 935.43 Responsibility of handlers and reclassification of milk.

(a) All skim milk and butterfat shall be Class I milk unless the handler who receives such skim milk or butterfat from producers or cooperative associations can establish to the satisfaction of the market administrator that such skim milk or butterfat should be classified otherwise; and

(b) Any skim milk or butterfat shall be reclassified if verification by the market administrator discloses that the original classification was incorrect.

§ 935.44 Transfers.

Skim milk or butterfat shall be classified:

(a) At the utilization indicated by the operators of both plants, otherwise as Class I milk, if transferred from a pool plant to the pool plant of another handler, except as provided in paragraph (e) of this section, subject in either event to the following conditions:

(1) The skim milk or butterfat so assigned to Class II milk shall be limited to the amount thereof remaining in Class

II milk after the subtraction of other source milk and beginning inventory of fluid milk products pursuant to § 935.46; and

(2) If other source milk was received at either or both plants the skim milk or butterfat so transferred shall be classified at both plants so as to allocate the greatest possible Class I utilization to producer milk at the two plants;

(b) As Class I milk, if transferred from a pool plant to a producer-handler in the form of a fluid milk product;

(c) As Class I milk, if transferred or diverted in the form of a fluid milk product to a nonpool plant located more than 200 miles, by the shortest highway distance as determined by the market administrator, from the nearer of the City Halls of Omaha or North Platte, Nebraska, and more than 50 miles from the pool plant from which transferred or diverted, except that cream so transferred may be classified as Class II if notice is given to the market administrator at least 24 hours prior to shipment, each container is labelled by the transferor as "ungraded cream for manufacturing only", and such shipment is so invoiced.

(d) As Class I milk, if transferred or diverted in the form of a fluid milk product in bulk to a nonpool plant located not more than 200 miles, by the shortest highway distance as determined by the market administrator from the nearer of the City Halls of Omaha or North Platte, Nebraska, or within 50 miles of the pool plant from which transferred or diverted, unless:

(1) The transferring or diverting handler claims classification in Class II milk in his report submitted to the market administrator pursuant to § 935.30 for the month within which such transaction occurred;

(2) The operator of such nonpool plant maintains books and records showing the utilization of all skim milk and butterfat received at such plant which are made available if requested by the market administrator for the purpose of verification; and

(3) The skim milk and butterfat in the fluid milk products (except in ungraded cream disposed of for manufacturing uses) disposed of from such nonpool plant does not exceed the receipts of skim milk and butterfat in Grade A milk received during the month from dairy farmers who the market administrator determines constitute the regular source of supply for such plant. If such disposition exceeds such receipts, the skim milk and butterfat so moved shall be Class I milk to an extent of not less than a pro rata share of such excess to the receipts at such nonpool plant from all plants subject to the classification and pricing provisions of this and other orders issued pursuant to the Act; and

(e) That milk transferred in bulk by a cooperative association from its pool plant to a pool plant of another handler and that delivered pursuant to § 935.8

(d) shall be deducted from the producer milk to be classified as that of the cooperative association and shall be included in producer milk classified at the plant of the transferee handler.

§ 935.45 Computation of skim milk and butterfat in each class.

For each month the market administrator shall correct for mathematical and other obvious errors the reports submitted by each handler and shall compute the total pounds of skim milk and butterfat, respectively, in each class for such handler.

§ 935.46 Allocation of skim milk and butterfat classified.

After making the computations pursuant to § 935.45, the market administrator shall determine the classification of producer milk for each handler as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class II the pounds of skim milk allocated in shrinkage of skim milk classified as Class II pursuant to § 935.41 (b) (7);

(2) Subtract from the remaining pounds of skim milk in each class, in series beginning with Class II, the pounds of skim milk in other source milk received in the form of a product other than a fluid milk product;

(3) Subtract from the remaining pounds of skim milk in each class, in series beginning with Class II, the pounds of skim milk in other source milk received in the form of a fluid milk product not classified and priced as Class I milk or its equivalent value under another order issued pursuant to the Act;

(4) Subtract the pounds of skim milk in other source milk received in the form of a fluid milk product which is classified and priced as Class I milk under another order issued pursuant to the Act, as follows:

(i) Subtract from the pounds of skim milk in Class I milk the pounds of skim milk contained in fluid milk products received in packaged form and disposed of in the same form as received; and

(ii) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class II, the remaining pounds of skim milk in such other source milk.

(5) Subtract from the remaining pounds of skim milk in each class, in series beginning with Class II, the pounds of skim milk contained in inventory of fluid milk products on hand at the beginning of the month;

(6) Add to the pounds of skim milk remaining in Class II the pounds of skim milk subtracted pursuant to subparagraph (1) of this paragraph;

(7) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk received from other pool plants to be classified pursuant to § 935.44(a), according to such classification; and

(8) If the remaining pounds of skim milk in all classes exceeds the pounds of skim milk contained in milk received from producers, subtract such excess from the remaining pounds of skim milk in series beginning with Class II. Any amount so subtracted shall be known as "overage";

(b) Butterfat shall be allocated in accordance with the same procedure out-

lined for skim milk in paragraph (a) of this section; and

(c) Combine the amounts of skim milk and butterfat determined pursuant to paragraphs (a) and (b) of this section into one total for each class and determine the weighted average butterfat content of producer milk in each class.

MINIMUM PRICES

§ 935.50 Basic formula price.

The higher of the prices computed pursuant to paragraphs (a) or (b) of this section, rounded to the nearest whole cent, shall be known as the basic formula price.

(a) The average of the basic or field prices per hundredweight reported to have been paid or to be paid for milk of 3.5 percent butterfat content received from farmers during the month at the following plants or places for which prices have been reported to the market administrator or the Department:

Present Operator and Location

Borden Co., Dixon, Ill.
Carnation Co., Northfield, Minn.
Carnation Co., Morrison, Ill.
Carnation Co., Oregon, Ill.
Carnation Co., Waverly, Iowa.
Dean Milk Co., Pecatonica, Ill.
Oatman Brothers, Inc., Amboy, Ill.
Pet Milk Co., Shullsburg, Wis.
United Milk Products Co., Argo, Ill.

(b) The price computed for the month pursuant to § 935.51 (b).

§ 935.51 Class prices.

Subject to the provisions of §§ 935.52 and 935.53 the class prices per hundredweight shall be as follows:

(a) *Class I milk.* The price per hundredweight of Class I milk containing 3.5 percent butterfat shall be the basic formula price for the preceding month, plus \$1.40; and

(b) *Class II milk.* The price per hundredweight of Class II milk containing 3.5 percent butterfat shall be determined by the market administrator as follows:

(1) Multiply the butter price by 4.24;

(2) Multiply by 8.2 the weighted average of carlot prices per pound for nonfat dry milk solids for human consumption, spray process, f.o.b. manufacturing plants in the Chicago area as published for the period from the 26th day of the immediately preceding month through the 25th day of the current month;

(3) Add into one sum the amounts obtained in subparagraphs (1) and (2) of this paragraph; and

(4) Subtract 60 cents therefrom.

§ 935.52 Butterfat differentials to handlers.

If the average butterfat content of the milk received from producers classified, respectively, in Class I or Class II milk for a handler is more or less than 3.5 percent, there shall be added to, or subtracted from the respective class price computed pursuant to § 935.51 for each one-tenth of one percent that such weighted average butterfat content is above or below 3.5 percent, a butterfat differential rounded to the nearest one-tenth cent computed as follows:

(a) *Class I milk.* Multiply the butter price for the preceding month by 0.125; and

(b) *Class II milk.* Multiply the butter price for the current month by 0.115.

§ 935.53 Location adjustments to handlers.

(a) For milk received from producers at a pool plant (or diverted to a nonpool plant) located more than 80 miles by shortest highway distance as measured by the market administrator, from the nearest of the City Halls in Columbus, Grand Island, Lincoln, North Platte and Omaha, Nebraska, and disposed of as Class I milk or assigned to Class I pursuant to paragraph (b) of this section, the price computed pursuant to § 935.51 shall be reduced by 12 cents, plus 1.5 cents for each 10 miles or fraction thereof that such distance exceeds 90 miles; and

(b) For purposes of calculating this differential transfers between pool plants shall be assigned to Class I in a volume not in excess of that by which Class I disposition at the transferee plant exceeds receipts at such plant from producers and cooperative associations pursuant to § 935.8(d), such assignment to be made first to transferor plants at which no differential credit is applicable and then in sequence beginning with the plant at which the least location differential would apply.

§ 935.54 Use of equivalent prices.

If for any reason a price quotation required by this part for computing class prices or for other purposes is not available in the manner described, the market administrator shall use a price determined by the Secretary to be equivalent to the price which is required.

APPLICATION OF PROVISIONS

§ 935.60 Producer-handler.

Sections 935.40 through 935.46, 935.50 through 935.53, 935.70 through 935.73, and 935.80 through 935.87 shall not apply to a producer-handler.

§ 935.61 Plants subject to other Federal orders.

Except for §§ 935.32 through 935.34 the provisions of this part shall not apply to a handler with respect to the operation of plants described as follows:

(a) A plant qualified pursuant to § 935.12(a) from which a lesser volume of fluid milk products is disposed of in the Nebraska-Western Iowa marketing area than in the marketing area of another marketing agreement or order issued pursuant to the Act and which is fully subject to the classification and pricing provisions of such other agreement or order; and

(b) Any plant qualified pursuant to § 935.12(b) for any portion of the period of January through July, inclusive, that producer milk at such plant is subject to the classification and pricing provisions of another order issued pursuant to the Act.

§ 935.62 Handler operating a nonpool plant.

In lieu of the payments required pursuant to §§ 935.80 and 935.86, each handler, other than a producer-handler or a handler exempt pursuant to § 935.61, who operates a nonpool plant during the

month, shall pay to the market administrator on or before the 25th day after the end of the month the amounts calculated pursuant to paragraph (a) of this section unless the handler elects, at the time of reporting pursuant to § 935.30, to pay amounts computed pursuant to paragraph (b) of this section;

(a) The following amounts:

(1) To the producer-settlement fund, any plus amount remaining after deducting from the value that would have been computed pursuant to § 935.80 if such handler had operated a pool plant the sum of (i) the gross payments made by such handler for milk received during the month from Grade A dairy farmers at such plant, and (ii) any payments with respect to operations of the same month to the producer-settlement funds of other orders issued pursuant to the Act due to the nonpool plant being a partially regulated plant under such other orders; and

(2) As his share of the expense of administration, an amount equal to that which would have been computed pursuant to § 935.86 had such plant been a pool plant, except that if such plant is also partially regulated under another order issued pursuant to the Act, the payments due under this subparagraph shall be reduced by the amount of any administrative expense payment under the other order; and

(b) The following amounts:

(1) To the producer-settlement fund, an amount obtained by multiplying the hundredweight of all skim milk and butterfat disposed of as Class I milk on routes in the marketing area by the rate applicable at the location of such handler's plant, pursuant to § 935.63(b); and

(2) As his share of the expense of administration, the rate specified in § 935.86 with respect to Class I milk so disposed of in the marketing area.

§ 935.63 Rate of payment on other source milk.

The following shall be rates of payment on other source milk. They shall be effective pursuant to § 935.70 only in months when the total receipts of producer milk are 110 percent or more of the total amount from all sources classified as Class I at pool plants, but shall be effective in all months pursuant to § 935.62(b)(1);

(a) On other source milk received other than in the form of fluid milk products, subtract the Class II price adjusted by the Class II butterfat differential from the Class I price adjusted by the Class I butterfat differential; and

(b) On other source milk received in the form of fluid milk products, subtract the Class II price adjusted by the Class II butterfat differential from the Class I price adjusted by the Class I butterfat differential, and adjust such difference by the location differential applicable at a pool plant of the same location as the nonpool plant supplying such other source milk. Such adjustments are to be made first at the nonpool plant at which no location differential applies and then in sequence at the plants at which the lowest location differential would apply.

DETERMINATION OF PRICES TO PRODUCERS

§ 935.70 Computation of the value of producer milk.

The value of producer milk received by each handler during each month shall be a sum of money computed by the market administrator as follows:

(a) Multiply the quantity of producer milk in each class, as computed pursuant to § 935.46(c), by the applicable class prices (adjusted pursuant to §§ 935.52 and 935.53);

(b) Add the amount obtained in multiplying the pounds of overage deducted from each class pursuant to § 935.46(a)(8) and the corresponding step of § 935.46(b) by the applicable class prices;

(c) Add the amount obtained in multiplying the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 935.46(a)(2) and the corresponding step of § 935.46(b) by the rate determined pursuant to § 935.63(a);

(d) Add the amount obtained in multiplying the difference between the Class II price for the preceding month and the Class I price for the current month by the lesser of:

(1) The hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 935.46(a)(5) and the corresponding step of § 935.46(b); or

(2) The hundredweight of skim milk and butterfat remaining in Class II after the calculation pursuant to § 935.46(a)(5) and the corresponding step of § 935.46(b) in the preceding month;

(e) Add the amount obtained in multiplying the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 935.46(a)(3) and the corresponding step of § 935.46(b) by the rate determined pursuant to § 935.63(b); and

(f) Add the amount obtained in multiplying the rate pursuant to § 935.63(a) or (b), as the case may be, by the hundredweight of skim milk and butterfat subtracted from Class I pursuant to § 935.46(a)(5) and the corresponding step of § 935.46(b) which is in excess of the sum of:

(1) The quantity for which payment is computed pursuant to paragraph (d) of this section; and

(2) The quantity subtracted from Class II pursuant to § 935.46(a)(4) and the corresponding step of § 935.46(b) in the preceding month.

§ 935.71 Computation of uniform price.

For each month the market administrator shall compute the uniform price per hundredweight of milk received from producers as follows:

(a) Combine into one total the values computed pursuant to § 935.70 for all handlers who filed the reports prescribed by § 935.30 and who made the payments pursuant to §§ 935.80 and 935.82:

(b) Subtract during each of the months of April, May and June, an amount equal to eight percent of the resulting sum;

(c) Add during each of the months of September, October and November, one-third of the total amount subtracted

pursuant to paragraph (b) of this section;

(d) Add an amount equal to the total value of the location differentials computed pursuant to § 935.73;

(e) Subtract if the average butterfat content of the milk included in these computations is more than 3.5 percent, or add, if such butterfat content is less than 3.5 percent, an amount computed by multiplying the amount by which the average butterfat content of such milk varies from 3.5 percent by the butterfat differential computed pursuant to § 935.72 and multiplying the result by the total hundredweight of producer milk included in these computations;

(f) Add an amount equal to not less than one-half of the unobligated balance in the producer-settlement fund;

(g) Divide the resulting sum by the total hundredweight of milk included in these computations; and

(h) Subtract not less than four cents nor more than five cents per hundredweight. The result shall be known as the "uniform price" for milk received from producers.

§ 935.72 Butterfat differential to producers.

The uniform price for producer milk shall be increased or decreased for each one-tenth of one percent that the butterfat content of such milk is above or below 3.5 percent, respectively, at the rate determined by multiplying the pounds of butterfat in producer milk allocated to Class I and Class II milk pursuant to § 935.46 by the respective butterfat differentials for each class, dividing the sum of such values by the total pounds of such butterfat, and rounding the resulting figure to the nearest one-tenth cent.

§ 935.73 Location differentials to producers.

The applicable uniform prices to be paid for producer milk received at a pool plant shall be reduced according to the location of the pool plant at the rates set forth in § 935.53.

§ 935.74 Notification of handlers.

On or before the 12th day of each month the market administrator shall notify each handler of:

(a) The amount and value of his milk in each class computed pursuant to §§ 935.46 and 935.70;

(b) The uniform price computed pursuant to § 935.71;

(c) The amount, if any, due such handler from the producer-settlement fund; and

(d) The total amounts to be paid by such handler pursuant to §§ 935.82, 935.85 and 935.86.

PAYMENTS

§ 935.80 Time and method of payment.

Each handler shall make payment as follows:

(a) On or before the 15th day after the end of each month during which the milk was received, to each producer for whom payment is not made pursuant to paragraph (c) of this section, at not less than the applicable uniform price pursuant to §§ 935.71, 935.72 and 935.73 and

less the following amounts (1) the payments made pursuant to paragraph (b) of this section, (2) marketing service deductions pursuant to § 935.85, and (3) any deductions authorized by the producer: *Provided*, That, if by such date such handler has not received full payment for such month pursuant to § 935.83, he may reduce his total payment to all producers uniformly but not less than the amount of reduction in payment from the market administrator, the handler shall, however, complete such payments not later than the date for making such payments pursuant to this paragraph next following receipt of the balance from the market administrator;

(b) On or before the 27th day of each month to each producer (1) for whom payment is not received from the handler by a cooperative association pursuant to paragraph (c) of this section, and (2) who had not discontinued shipping milk to such handler, an advance payment with respect to milk received from such producer during the first 15 days of the month an amount per hundredweight not to be less than the uniform price for the preceding month;

(c) To a cooperative association which has filed a written request for such payment with such handler and with respect to producers for whose milk the market administrator determines such cooperative association is authorized to collect payment as follows:

(1) On or before the 26th day of the month, an amount not less than the sum of the individual payments otherwise payable to producers pursuant to paragraph (b) of this section, less any deductions authorized in writing by such cooperative association;

(2) On or before the 14th day after the end of each month an amount not less than the sum of the individual payments otherwise payable to producers pursuant to paragraph (a) of this section, less proper deductions authorized in writing by such cooperative association;

(d) To a cooperative association with respect to receipts of milk from such cooperative association classified pursuant to § 935.44(e) as follows:

(1) On or before the 26th day of the month, for milk received during the first 15 days of the month an amount per hundredweight not less than the uniform price for the preceding month; and

(2) On or before the 14th day after the end of each month not less than the value of such milk at the applicable uniform price pursuant to §§ 935.71, 935.72 and 935.73, less the amount of the payment made pursuant to subparagraph (1) of this paragraph;

(e) In making payments to producers pursuant to paragraph (a) of this section, each handler shall furnish each producer with a supporting statement, in such form that it may be retained by the producer, which shall show:

(1) The month and the identity of the handler and of the producer;

(2) The pounds per shipment, the total pounds, and the average butterfat test of milk delivered by the producer;

(3) The minimum rate or rates at which payment to the producer is required under the provisions of §§ 935.71, 935.72 and 935.73;

(4) The rate which is used in making the payment, if such rate is other than the applicable minimum rate;

(5) The amount or the rate per hundredweight of each deduction claimed by the handler, including any deduction claimed under paragraph (b) of this section and § 935.85 together with a description of the respective deductions; and

(6) The net amount of payment to the producer; and

(f) Nothing in this section shall abrogate the right of a cooperative association to make payments to its member producers in accordance with the payment plan of such cooperative association.

§ 935.81 Producer-settlement fund.

The market administrator shall establish and maintain a separate fund known as the "producer-settlement fund" into which he shall deposit all payments made by handlers pursuant to §§ 935.62 (a) (1) and (b) (1), 935.82 and 935.84 and out of which he shall make all payments to handlers pursuant to §§ 935.83 and 935.84.

§ 935.82 Payments to the producer-settlement fund.

On or before the 13th day after the end of each month each handler shall pay to the market administrator the amount, if any, by which the total value of the milk received by such handler from producers computed pursuant to § 935.70 (plus, in the case of a cooperative association which is a handler, the minimum amount due from other handlers pursuant to § 935.80(d)) is greater than the value of such handler's producer milk at the applicable uniform prices specified in § 935.80.

§ 935.83 Payments out of the producer-settlement fund.

On or before the 14th day after the end of each month the market administrator shall pay to each handler the amount, if any, by which the value of the milk received by such handler from producers computed pursuant to § 935.70 (plus, in the case of a cooperative association that is a handler, the minimum amount due from other handlers pursuant to § 935.80 (d)) is less than the value of such handler's producer milk at the applicable uniform prices specified in § 935.80: *Provided*, That the market administrator shall offset any payment due any handler against payments due from such handler.

§ 935.84 Adjustment of accounts.

Adjustments of accounts shall be made as follows:

(a) Whenever verification by the market administrator of reports or payments of any handler discloses errors made in payments to or from the producer-settlement fund pursuant to §§ 935.82 and 935.83, the market administrator shall promptly bill such handler for any unpaid amount and such handler shall, within five days, make payment to the market administrator of the amount so billed. Whenever verification discloses that payment is due from the market administrator to any handler, the market administrator shall, within five days,

make such payment to such handler; and

(b) Whenever verification by the market administrator of the payments by a handler to any producer or cooperative association, discloses payment of less than is required by § 935.80, the handler shall make up such payment to the producer or cooperative association not later than the time of making payments next following such disclosure.

§ 935.85 Marketing services.

(a) Except as set forth in paragraph (b) of this section, each handler in making payments to each producer pursuant to § 935.80 shall deduct six cents per hundredweight, or such lesser amount as the Secretary may prescribe, with respect to producer milk received by such handler (except such handler's own farm production) during the month and shall pay such deductions to the market administrator not later than the 15th day after the end of the month. Such money shall be used by the market administrator to verify or establish weights, samples, and tests of producer milk and to provide producers with market information. Such services shall be performed in whole or in part by the market administrator or by an agent engaged by and responsible to him; and

(b) In the case of producers for whom a cooperative association is performing, as determined by the Secretary, the services set forth in paragraph (a) of this section, each handler shall make, in lieu of the deductions specified in paragraph (a) of this section, such deductions as are authorized by such producers and, on or before the 15th day after the end of each month, pay over such deductions to the association rendering such services.

§ 935.86 Expense of administration.

As his pro rata share of the expense of administration of the order each handler shall pay to the market administrator three cents per hundredweight or such lesser amount as the Secretary may prescribe.

(a) On or before the 14th day after the end of the month with respect to (1) receipts at a pool plant of (i) producer milk (including that classified pursuant to § 935.44(e) and such handler's own production) and (ii) other source milk allocated to Class I pursuant to § 935.46 (a) (2) or (3) and the corresponding steps of paragraph (b) of § 935.46, and (2) producer milk for which a cooperative association is the handler in excess of that delivered to the pool plants of other handlers; and

(b) The quantities of milk at handlers' nonpool plants and at the time as specified in § 935.62.

§ 935.87 Termination of obligations.

The provisions of this section shall apply to any obligation under this part for the payment of money.

(a) The obligation of any handler to pay money required to be paid under

the terms of this part shall, except as provided in paragraphs (b) and (c) of this section, terminate two years after the last day of the calendar month during which the market administrator receives the handler's utilization report on milk involved in such obligation unless within such two-year period the market administrator notifies the handler in writing that such money is due and payable. Service of such notice shall be complete upon mailing to the handler's last known address, and it shall contain, but need not be limited to the following information:

(1) The amount of the obligation;

(2) The month(s) during which the milk, with respect to which the obligation exists, was received or handled; and

(3) If the obligation is payable to one or more producer(s) or association of producers, or if the obligation is payable to the market administrator, the account for which it is to be paid;

(b) If a handler fails or refuses with respect to any obligation under this part, to make available to the market administrator or his representative all books and records required by this part to be made available, the market administrator may, within the two-year period provided for in paragraph (a) of this section, notify the handler in writing of such failure or refusal. If the market administrator so notifies the handler, the said two-year period with respect to such obligation shall not begin to run until the first day of the calendar month following the month during which all such books and records pertaining to such obligation are made available to the market administrator or his representatives;

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, a handler's obligation under this part to pay money shall not be terminated with respect to any transaction involving fraud or willful concealment of a fact, material to the obligation, on the part of the handler against whom the obligation is sought to be imposed; and

(d) Any obligation on the part of the market administrator to pay a handler any money which such handler claims to be due him under the terms of this part shall terminate two years after the end of the calendar month during which the milk involved in the claim was received if an underpayment is claimed, or two years after the end of the calendar month during which the payment (including deduction of setoff by the market administrator) was made by the handler if a refund on such payment is claimed, unless such handler, within the applicable period of time, files pursuant to section 8c(15) (A) of the Act, a petition claiming such money.

MISCELLANEOUS PROVISIONS

§ 935.90 Effective time.

The provisions of this part or any amendment to this part shall become

effective at such time as the Secretary may declare and shall continue in force until suspended or terminated pursuant to § 935.91.

§ 935.91 Suspension or termination.

The Secretary may suspend or terminate this part or any provision thereof whenever he finds that it obstructs or does not tend to effectuate the declared policy of the Act. This part shall terminate in any event whenever the provisions of the Act authorizing it cease to be in effect.

§ 935.92 Continuing obligations.

If, upon the suspension or termination of any or all provisions of this part, there are any obligations arising under it, the final accrual or ascertainment of which requires further acts by any person (including the market administrator), such further acts shall be performed notwithstanding such suspension or termination.

§ 935.93 Liquidation.

Upon the suspension or termination of the provisions of this part, except this section, the market administrator, or such other liquidating agent as the Secretary may designate, shall if so directed by the Secretary, liquidate the business of the market administrator's office, dispose of all property in his possession or control, including accounts receivable, and execute and deliver all assignments or other instruments necessary or appropriate to effectuate any such disposition. If a liquidating agent is so designated, all assets, books and records of the market administrator shall be transferred promptly to such liquidating agent. If, upon such liquidation, the funds on hand exceed the amounts required to pay outstanding obligations of the office of the market administrator and to pay necessary expenses of liquidation and distribution, such excess shall be distributed to contributing handlers and producers in an equitable manner.

§ 935.94 Agents.

The Secretary may, by designation in writing, name any officer or employee of the United States to act as his agent or representative in connection with any of the provisions of this part.

§ 935.95 Separability of provisions.

If any provision of this part, or its application to any person or circumstances is held invalid, the application of such provision and of the remaining provisions of this part, to other persons or circumstances shall not be affected thereby.

Effective date: November 1, 1961.

Signed at Washington, D.C., on October 26, 1961.

JAMES T. RALPH,
Assistant Secretary.

[F.R. Doc. 61-10322; Filed, Oct. 30, 1961; 8:49 a.m.]

Title 9—ANIMALS AND ANIMAL PRODUCTS

Chapter I—Agricultural Research Service, Department of Agriculture

SUBCHAPTER D—EXPORTATION AND IMPORTATION OF ANIMALS AND ANIMAL PRODUCTS

PART 94—RINDERPEST, FOOT-AND-MOUTH DISEASE, FOWL PEST (FOWL PLAGUE), NEWCASTLE DISEASE (AVIAN PNEUMOENCEPHALITIS), AND AFRICAN SWINE FEVER: PROHIBITED AND RESTRICTED IMPORTATIONS

Cured and Dried Meats

On September 6, 1961, there was published in the *FEDERAL REGISTER* (26 F.R. 8398) a notice of a proposed amendment of § 94.4(a)(3) of the regulations pertaining to the importation of cured and dried meats.

After due consideration of all relevant material in connection with such notice and pursuant to the provisions of section 306 of the Act of June 17, 1930, as amended (19 U.S.C. 1306), and section 2 of the Act of February 2, 1903, as amended (21 U.S.C. 111), § 94.4(a)(3) of the regulations in Part 94, Title 9, Code of Federal Regulations, is hereby amended to read as follows:

(3)(i) The meat shall have been thoroughly cured and fully dried in such manner that it may be stored and handled without refrigeration, as in the case of salami and other summer sausages, tasajo, xarque, or jerked beef, bouillon cubes, dried beef, and Westphalia, Italian and similar type hams. The term "fully dried" as used in this subparagraph means dried to the extent that the water-protein ratio in the wettest portion of the product does not exceed 2.25 to 1.

(ii) Laboratory analysis of samples to determine the water-protein ratios will not be made in the case of all shipments of cured and dried meats. However, in any case in which the inspector is uncertain whether the meat complies with the requirements of subparagraph (i) he will send a sample of the meat representative of the wettest portion to the Meat Inspection Division for analysis of the water-protein ratio. Pending such analysis the meat shall not be released or removed from the port of entry.

(Sec. 306, 46 Stat. 689, as amended, sec. 2, 32 Stat. 792, as amended; 19 U.S.C. 1306, 21 U.S.C. 111)

Effective date. The foregoing amendment shall become effective upon publication in the *FEDERAL REGISTER*.

The amendment clarifies the meaning of the term "fully dried" as used in the regulation in 9 CFR 94.4(a)(3) and formalizes the procedures followed in enforcing the regulation. It is in the nature of an interpretation of the regulation and a statement of policy with respect to its enforcement. Accordingly, under section 4 of the Administrative Procedure Act (5 U.S.C. 1003), it may be made effective less than thirty days

after publication in the *FEDERAL REGISTER*.

Done at Washington, D.C., this 26th day of October 1961.

B. T. SHAW,
Administrator,
Agricultural Research Service.

[F.R. Doc. 61-10344; Filed, Oct. 30, 1961; 8:52 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter II—Civil Aeronautics Board

SUBCHAPTER A—ECONOMIC REGULATIONS

[Reg. ER-339]

PART 225—TARIFFS OF CERTAIN CERTIFICATED AIRLINES; TRADE AGREEMENTS

Limitation on Total Value of Trade Agreements

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 25th day of October 1961.

Section 225.6(b) of Part 225 of the Board's Economic Regulations (14 CFR Part 225) provides that certificated air carriers furnishing passenger air transportation between Hawaii on the one hand and Christmas Island, the Society Islands, American Samoa, Western Samoa, and Fiji on the other hand, may execute trade agreements whereby air transportation may be exchanged for advertising services and goods of the aggregate value of \$20,000 per year.

South Pacific Air Lines (SPAL), presently the only certificated air carrier operating on the above-described route, has by petition dated August 8, 1961, Docket 12897, requested that the Board raise the \$20,000 limitation, either by exemption from or amendment of § 225.6(b).

Upon consideration of the petition filed by SPAL, the Board finds that it is in the public interest that airlines (as that term is defined in Part 225) falling under § 225.1(a)(5) should be permitted to exchange air transportation for advertising services and goods in the aggregate value of \$100,000 per year. SPAL is currently the only air carrier included in this category.

The regulation as herein amended permits airlines in the category identified under § 225.1(a)(5) to execute trade agreements to the total value of \$40,000 during 1961. This is \$20,000 more than the presently applicable limitation, thus apportioning the \$100,000 limitation, herein adopted, to the number of calendar months remaining in 1961.

To the extent not granted herein, the petition of SPAL is denied. This document shall be served on SPAL.

Inasmuch as this amendment does not impose a regulatory burden on any person and grants an exemption, the Board finds that notice and public procedure hereon are unnecessary and that the amendment may be made effective upon less than 30 days' notice.

In consideration of the foregoing, the Civil Aeronautics Board hereby amends Part 225 of the Economic Regulations (14 CFR Part 225), effective October 31, 1961.

By amending § 225.6 (a) and (b) to read:

(a) \$100,000 in the aggregate each year for those airlines identified under § 225.1(a)(1), (2), (3), and (5): *Provided*, That the total value of all trade agreements entered into under the provisions of this Part by airlines identified under § 225.1(a)(5) shall not exceed \$40,000 for the calendar year 1961.

(b) \$20,000 in the aggregate each year for those airlines identified under § 225.1(a)(4).

(Sec. 204(a), 72 Stat. 743; 49 U.S.C. 1324. Interpret or apply secs. 403 and 416, 72 Stat. 758, 760, 771; 49 U.S.C. 1373, 1374, 1386)

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON,
Secretary.

[F.R. Doc. 61-10329; Filed, Oct. 30, 1961; 8:51 a.m.]

Chapter III—Federal Aviation Agency

SUBCHAPTER E—AIR NAVIGATION REGULATIONS

[Airspace Docket No. 61-WA-43]

PART 600—DESIGNATION OF FEDERAL AIRWAYS

PART 601—DESIGNATION OF CONTROLLED AIRSPACE, REPORTING POINTS, POSITIVE CONTROL ROUTE SEGMENTS, AND POSITIVE CONTROL AREAS

Alteration of Federal Airway and Associated Control Areas

On April 25, 1961, a notice of proposed rule making was published in the *FEDERAL REGISTER* (26 F.R. 3539) stating that the Federal Aviation Agency proposed to extend low altitude VOR Federal airway No. 264 eastward from Prescott, Ariz., to Socorro, N. Mex., via St. Johns, Ariz., and to designate the control areas associated with this segment of Victor 264 to extend upward from at least 1,200 feet above the surface or, if appropriate, 500 feet below the minimum IFR en route altitude, when established, to the base of the continental control area.

On August 1, 1961, a supplemental notice of proposed rule making was published in the *FEDERAL REGISTER* (26 F.R. 6861) amending the original notice. The supplemental notice proposed that the control areas associated with this segment of Victor 264 extend upward from 700 feet above the surface to the base of the continental control area until such time as the control areas associated with the other airways in the vicinity of Prescott and Socorro can be altered by applying Amendment 60-21 to Part 60 of the Civil Air Regulations.

The Department of the Air Force offered no objection to the extension of Victor 264 as proposed in the notice provided that this airway would not curtail the operational capability of the Air

Force over low level Oil Burner Route "Golf Tee", which would cross the proposed airway between the Rim Rock Intersection and St. Johns. No other comments were received regarding the proposed amendments.

Since VOR Federal airway No. 1520 was designated along the proposed extension of Victor 264 prior to the implementation of the intermediate route structure and no problems were encountered, and since the minimum IFR en route altitude for the airway segment affected by Oil Burner Route "Golf Tee" would be established, 1,000 feet below the lowest altitude utilized by the oil burner route, it appears that both operations would be compatible.

Interested persons have been afforded an opportunity to participate in the making of the rules herein adopted, and due consideration has been given to all relevant matter presented.

The substance of the proposed amendments having been published, therefore, pursuant to the authority delegated to me by the Administrator (25 F.R. 12582) and for the reasons stated in the notice and supplemental notice, the following actions are taken:

1. Section 600.6264 (14 CFR 600.6264, 26 F.R. 6916) is amended to read:

§ 600.6264 VOR Federal airway No. 264 (Los Angeles, Calif., to Socorro, N. Mex.).

From the Los Angeles, Calif., VOR via the Ontario, Calif., VOR; INT of the Ontario VOR 091° and the Twenty-Nine Palms, Calif., VORTAC 244° radials; Twenty-Nine Palms VORTAC; Parker, Calif., VORTAC; Prescott, Ariz., VORTAC; St. Johns, Ariz., VORTAC; to the Socorro, N. Mex., VORTAC.

2. Section 601.6264 (14 CFR 601.6264) is amended to read:

§ 601.6264 VOR Federal airway No. 264 control areas (Los Angeles, Calif., to Socorro, N. Mex.).

All of VOR Federal airway No. 264.

These amendments shall become effective 0001 e.s.t., December 14, 1961.

(Sec. 307(a), Stat. 749; 49 U.S.C. 1348)

Issued in Washington, D.C., on October 25, 1961.

D. D. THOMAS,
Director, Air Traffic Service.

[F.R. Doc. 61-10303; Filed, Oct. 30, 1961; 8:45 a.m.]

[Airspace Docket No. 61-HO-14]

PART 608—SPECIAL USE AIRSPACE

Alteration of Restricted Area

The purpose of this amendment to § 608.31 of the regulations of the Administrator is to designate a controlling agency for the Bonham, Hawaii, Restricted Area R-3101.

The Department of the Navy concurs with the Federal Aviation Agency (FAA) that more safe, efficient, and economical utilization of airspace can be accomplished by joint civil/military use of R-

3101. Therefore, action is taken herein to designate the Federal Aviation Agency, Lihue Flight Service Station, as the controlling agency for R-3101.

Since the change effected by this amendment imposes no additional burden on any person, notice and public procedure hereon are unnecessary, and it may be made effective immediately.

In consideration of the foregoing and pursuant to the authority delegated to me by the Administrator (25 F.R. 12582), the following action is taken:

In § 608.31 Hawaii (26 F.R. 7193), R-3101 Bonham, Hawaii, Restricted Area is amended to read:

R-3101 Bonham, Hawaii

Boundaries. Beginning at latitude 22°-12'45" N., longitude 159°43'00" W.; to latitude 22°09'20" N., longitude 159°43'00" W.; counterclockwise along the shoreline of the Island of Kauai to latitude 21°58'00" N., longitude 159°43'00" W.; to latitude 21°-55'00" N., longitude 159°43'00" W.; clockwise along a line 3 nautical miles from and parallel to the shoreline of the Island of Kauai to the point of beginning.

Designated altitudes. Surface to 5,000 feet MSL.

Time of designation. Continuous.

Controlling agency. Federal Aviation Agency, Lihue Flight Service Station.

Using agency. Commander, Fleet Air Hawaii, NAS Barber's Point, Hawaii.

This amendment shall become effective upon the date of publication in the FEDERAL REGISTER.

(Sec. 307(a), 72 Stat. 749; 49 U.S.C. 1348)

Issued in Washington, D.C., on October 25, 1961.

D. D. THOMAS,
Director, Air Traffic Service.

[F.R. Doc. 61-10302; Filed, Oct. 30, 1961; 8:45 a.m.]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket 8205 c.o.]

PART 13—PROHIBITED TRADE PRACTICES

Atlantic Jet Training, Inc., et al.

Subpart—Advertising falsely or misleadingly: § 13.15 *Business status, advantages, or connections*; § 13.15-125 *Individual or private business being*; § 13.15-125(m) *Educational or research institution*; § 13.15-225 *Personnel or staff*; § 13.60 *Earnings and profits*; § 13.105 *Individual's special selection or situation*; § 13.115 *Jobs and employment service*; § 13.143 *Opportunities*. Subpart—Using misleading name—Vendor: § 13.2410 *Individual or private business being educational, religious or research institution or organization*.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 46) [Cease and desist order, Atlantic Jet Training, Inc., et al., Zephyrills, Fla., Docket 8205, Aug. 22, 1961]

In the Matter of Atlantic Jet Training, Inc., a Corporation, and Marvin E. Champeau, and Jane Kite-Powell, Individually and as Officers and Directors of Said Corporation, and Ralph G. Champeau, Individually and as an Officer of Said Corporation, and Annie E. Champeau, Individually and as a Director of Said Corporation

Consent order requiring sellers in Zephyrills, Fla., to cease misleading prospective purchasers of their home study courses in jet engine mechanics as to opportunities and earnings prospects in the aircraft industry, and using the term "Field Registrar" for their salesmen and other misleading terms as descriptive of their business organization; and requiring them to disclose affirmatively that persons completing their course did not qualify for certification by the Federal Aviation Agency, and that such certification was required in the occupation concerned.

The order to cease and desist is as follows:

It is ordered, That respondents Atlantic Jet Training, Inc., a corporation, and its officers and directors, and Marvin E. Champeau and Jane Kite-Powell, individually and as officers and directors of said corporation, and Ralph G. Champeau, individually and as an officer of said corporation, and Annie E. Champeau, individually and as a director of said corporation, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the offering for sale, sale or distribution in commerce, as "commerce" is defined in the Federal Trade Commission Act, of courses of study or instruction, do forthwith cease and desist from:

1. Representing, directly or by implication: (a) That a person need only complete such course to be a trained jet aircraft engine mechanic or technician or be qualified to repair, maintain or overhaul jet aircraft engines;

(b) That a person upon successful completion of such course or courses, will thereby be able to get employment as a mechanic or technician in the repair, maintenance or overhaul of jet aircraft engines;

(c) That respondents' sales representatives designated as "Field Registrars" are not salesmen or that they are primarily concerned with determining the qualifications of prospective purchasers of courses;

(d) That prospects must possess any particular qualifications before the course will be sold to them, unless such is the fact.

2. Using the term "Field Registrar" as applied to respondents' salesmen or the terms "Board of Admissions", "Placement Bureau", and "Student Counselors", as applied to their business, or any other words or terms of similar import or meaning.

3. Making any representations concerning employment or earning prospects in the jet aircraft industry, with-

out affirmatively and conspicuously disclosing:

(a) That persons completing such course of study do not meet the prerequisites for certification by the Federal Aviation Agency;

(b) That an employee must have Federal Aviation Agency certification in order to sign off or release a product to service when it has undergone repair, maintenance, alteration or overhauling.

It is further ordered, That the complaint, insofar as the charges concerning the terms "Director of Training" and "Consultation and Employment Service", set out in Paragraph Seven, be, and the same hereby is, dismissed.

By "Decision of the Commission", etc., report of compliance was required as follows:

It is ordered, That the respondents herein shall within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with the order to cease and desist.

Issued: August 22, 1961.

By the Commission.

[SEAL] JOSEPH N. KUZEW,
Acting Secretary.

[F.R. Doc. 61-10308; Filed, Oct. 30, 1961;
8:46 a.m.]

[Docket 8297 c.o.]

PART 13—PROHIBITED TRADE PRACTICES

Packard Mills, Inc., et al.

Subpart—Misbranding or mislabeling: § 13.1185 *Composition*: § 13.1185-90 *Wool Products Labeling Act*. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1852 *Formal regulatory and statutory requirements*: § 13.1852-80 *Wool Products Labeling Act*.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended, secs. 2-5, 54 Stat. 1128-1130; 15 U.S.C. 45, 68) [Cease and desist order, Packard Mills, Inc. (Webster, Mass.), et al., Docket 8297, Sept. 12, 1961]

In the Matter of Packard Mills, Inc., a Corporation; Ralph K. Hubbard and Edwin L. Hubbard, Individually and as Officers of Said Corporation, and Alan W. Manter, Individually

Concent order requiring proprietors of woolen mills in Webster and Caryville, Mass., to cease violating the Wool Products Labeling Act by labeling or tagging as "75% Wool 15% Nylon and 10% Cashmere" and "85% Wool, 15% Nylon", woolen fabrics which contained substantially less wool than was thus indicated, and by failing to label certain wool products as required.

The order to cease and desist is as follows:

It is ordered, That respondent Packard Mills, Inc., a corporation, and its officers, and Ralph K. Hubbard and Edwin L. Hubbard, individually and as officers of said corporation, and Allen W. Manter

(named in the complaint as Alan W. Manter), individually, and respondents' representatives, agents and employees, directly or through any corporate or other device, in connection with the introduction or manufacture for introduction into commerce, or the offering for sale, sale, transportation or distribution, in commerce, as "commerce" is defined in the Federal Trade Commission Act and the Wool Products Labeling Act of 1939, of woolen fabrics or other "wool products," as such products are defined in and subject to the Wool Products Labeling Act of 1939, do forthwith cease and desist from misbranding such products by:

1. Falsely or deceptively stamping, tagging, labeling or otherwise identifying such products as to the character or amount of the constituent fibers included therein.

2. Failing to affix labels to such products showing such elements of information required to be disclosed by section 4(a)(2) of the Wool Products Labeling Act of 1939.

By "Decision of the Commission", etc., report of compliance was required as follows:

It is further ordered, That the respondents, Packard Mills, Inc., a corporation, and Ralph K. Hubbard and Edwin L. Hubbard, individually and as officers of said corporation, and Allen W. Manter (named in the complaint as Alan W. Manter), individually, shall, within sixty (60) days after service upon them of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with the order to cease and desist.

Issued: September 12, 1961.

By the Commission.

[SEAL] JOSEPH W. SHEA,
Secretary.

[F.R. Doc. 61-10309; Filed, Oct. 30, 1961;
8:46 a.m.]

[Docket 8097 c.o.]

PART 13—PROHIBITED TRADE PRACTICES

Spencer Gifts, Inc., et al.

Subpart—Advertising falsely or misleadingly: § 13.135 *Nature of product or service*; § 13.285 *Value*.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, Spencer Gifts, Inc., et al., Atlantic City, N.J., Docket 8097, Sept. 12, 1961]

In the Matter of Spencer Gifts, Inc., a Corporation, and Max Adler and Harry Adler, Individually and as Officers of said Corporation

Order requiring mail order merchandisers in Atlantic City, N.J., to cease such unfair practices as offering in their catalogs, to induce purchase of their products, "Arpege by Lanvin or Chanel No. 5 by Chanel only 70¢ per bottle with anything you order * * *", representing thus that the products so offered were perfumes offered at a special low price

when they were in fact colognes and the price provided a substantial profit to respondent.

The order to cease and desist is as follows:

It is ordered, That respondents, Spencer Gifts, Inc., a corporation, and its officers, and Max Adler, individually and as an officer of said corporation, and respondents' agents, representatives, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of cologne in commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

1. Representing, directly or by implication, that a cologne is a perfume.

2. Using the name of any brand of perfume to describe cologne, unless in close connection with such brand name the product is clearly stated to be cologne.

3. Offering for sale or selling a cologne, in bottles or other containers of the same size and appearance as containers in which perfumes are customarily or usually packaged, without clearly disclosing that such product is cologne.

It is further ordered, That the complaint herein is dismissed as to respondent Harry Adler, individually and as an officer of corporate respondent.

By "Final Order", report of compliance was required as follows:

It is ordered, That respondents, Spencer Gifts, Inc., a corporation, and Max Adler, individually and as an officer of said corporation, shall, within sixty (60) days after service upon them of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with the order to cease and desist contained in the aforesaid initial decision.

Issued: September 12, 1961.

By the Commission.

[SEAL] JOSEPH W. SHEA,
Secretary.

[F.R. Doc. 61-10310; Filed, Oct. 30, 1961;
8:46 a.m.]

Title 22—FOREIGN RELATIONS

Chapter I—Department of State

[Departmental Reg. 108.473]

PART 22—FEES AND CHARGES, FOREIGN SERVICE

Section 22.1 *Tariff of Fees, Foreign Service of the United States of America*, (a) of Title 22 of the Code of Federal Regulations is amended in part in the tariff schedule by adding items 26 through 28. The new items shall read as follows:

VISA SERVICES FOR ALIENS

Item
No.

26. Medical examination of applicant for immigrant or nonimmigrant visa, when the examination is performed by a physician employed by the United States Public Health Service.----- \$10.00

VISA SERVICES FOR ALIENS—Continued

Item
No.

27. Medical examination of applicant for nonimmigrant visa who is proceeding to the United States under a United States Government sponsored program, or with a grant from the United States Government covering travel or any other expenses or allowances, when the examination is performed by a physician employed by the United States Public Health Service..... No fee
28. Medical examination of applicant for immigrant visa under legislation authorizing the issuance of visas to refugees or escapees, when the examination is performed by a physician employed by the United States Public Health Service..... No fee
(Item number 29 vacant.)

The regulations contained in this order shall become effective November 1, 1961. The provisions of section 4 of the Administrative Procedure Act (60 Stat. 238; 5 U.S.C. 1003) relative to notice of proposed rule making and delayed effective date are inapplicable to this order because the provisions thereof involve foreign affairs functions of the United States.

For the Secretary of State.

ROGER W. JONES,
Deputy Under Secretary
for Administration.

OCTOBER 25, 1961.

[F.R. Doc. 61-10313; Filed, Oct. 30, 1961;
8:47 a.m.]

Title 42—PUBLIC HEALTH

Chapter I—Public Health Service, Department of Health, Education, and Welfare

SUBCHAPTER D—GRANTS

PART 51—GRANTS TO STATES FOR PUBLIC HEALTH SERVICES

Grants for Programs Relating to Chronic Illness and the Aged

Notice of proposed rule making, public rule making procedures and delay in effective date have been omitted as unnecessary in the issuance of the following amendments to this part which relate solely to grants for programs relating to chronic illness and the aged and grants for other public health programs. The purpose of these amendments is to add new material providing the basis for grants for chronic illness and the aged programs and to make technical corrections in the regulations relating to existing grant programs. Pursuant to section 314(j) of the Public Health Service Act, as amended (58 Stat. 695; 42 U.S.C. 246(j)), these amendments are made after consultation with, and with the agreement of, a conference of the State health authorities and, with respect to provision affecting the mental health program, State mental health authorities.

No. 210—4

Effective date. These amendments shall be effective on the date of publication in the FEDERAL REGISTER.

1. Paragraph (f) of § 51.1 is amended to read as follows:

§ 51.1 Definitions.

As used in this part:

“(f) ‘Plans’ refers to the information and proposals submitted by the State health authority pursuant to the regulations in this part for activities of the State and political subdivisions thereof for (1) the prevention, treatment and control of venereal disease, (2) the prevention, treatment and control of tuberculosis, (3) establishing and maintaining public health services, (4) the prevention, treatment and control of mental illness, including emotional, psychiatric and neurological disorders, (5) establishing and maintaining organized community programs of heart disease control, (6) the prevention, control and eradication of cancer, or (7) services for the chronically ill and the aged.

2. Section 51.2 is amended by adding thereto a new paragraph (f) which reads as follows:

§ 51.2 Allotments; extent of health problems.

For the purpose of making allotments to the several States:

“(f) *Chronic illness and the aged.* The extent of the problem of the chronically ill and the aged shall be determined by the Surgeon General taking into consideration such factors as the population age 65 and over.

3. Section 51.3 is amended by adding a new paragraph (g) which reads as follows:

§ 51.3 Basis of allotments.

Allotments to the several States shall be computed as follows:

“(g) *Chronic illness and the aged.* Of the amount available for allotment for services for the chronically ill and the aged:

- (1) From 20 percent to 40 percent on the basis of the total population, weighted by financial need.
- (2) From 60 percent to 80 percent on the basis of population over 65, weighted by financial need.

4. Paragraph (b) of § 51.6 is amended to read as follows:

§ 51.6 Plans; contents.

“(b) The State health department shall, with respect to its total annual expenditures of Federal and required matching funds for its venereal disease, tuberculosis, heart, cancer, mental health, the chronically ill and the aged programs, provide in its State plan for the allocation of such expenditures to such programs in accordance with either of the following procedures:

- (1) On the basis of objective criteria set forth in the State plan, allocate to

such programs a portion of “supporting expenditures” which, together with any “specialized expenditures” identified for such program, will at least equal the total annual expenditures of Federal and required matching funds;

(2) Identify as “specialized” expenditures for such programs an amount equal to 80 percent or more of the total annual expenditures of Federal and required matching funds for those programs, provided the remaining 20 percent or less of such total expenditures were for purposes within the scope of the applicable approved State plan.

5. Paragraph (b) of § 51.8 is amended to read as follows:

§ 51.8 Payments to States; to cooperating agencies.

“(b) Payments from a State allotment shall be reduced as follows:

(1) Payments to a State for any purpose specified in § 51.3 shall, at the request of the State or the State mental health authority, be reduced by the amount of the costs arising from the detail of Public Health Service personnel at the request of the State to such State or any of its political subdivisions, for the purposes of carrying out its approved State plan. The amount by which a payment is reduced for this purpose will be deemed to have been paid to the State.

(2) Payments from a State allotment for venereal disease control shall be reduced by the amount such State requests the Public Health Service to utilize in furnishing equipment, services, and supplies for special venereal disease activities.

6. Paragraph (a) of § 51.9 is amended to read as follows:

§ 51.9 Required expenditure of State and local funds; funds of cooperating agencies.

“(a) Moneys paid to any State or to a cooperating agency pursuant to section 314 of the act shall be paid upon the condition that there be expended in the State during the fiscal year for which payment is made and for purposes specified in the plan with respect to which payment is made, public funds of the State and its political subdivision (or, in the case of payments to a cooperating agency having an approved heart disease control plan, funds of the cooperating agency) in amounts which shall be exclusive of any funds derived from loan or grant from the United States for the same general purpose and which shall equal separately for venereal disease control, tuberculosis, mental health, general health, the chronically ill and the aged and heart disease, 100 percent of the Federal grant funds expended pursuant to the plan, except that for fiscal years 1962, 1963, 1964, and 1965 with respect to Federal grant funds appropriated especially for services for the chronically ill and the aged the percentage shall be 50 percent.

7. Section 51.9 is further amended by adding at the end thereof a new paragraph (e) which reads as follows:

RULES AND REGULATIONS

§ 51.9 Required expenditure of State
and local funds; funds of cooperat-
ing agencies.

* * * * *

(e) For the purposes of this section and § 51.6(b), the amount by which payments to a State are reduced at the request of the State or the State mental health authority to defray costs in connection with the detail of Public Health Service personnel shall be deemed to have been paid to and expended by the State.

8. Section 51.4(c) is amended by changing the final period to a colon and adding the following language: *Provided*, That allotments for fiscal year 1962 for programs for chronic illness and the aged shall be allotted on the basis of the total sum available for these purposes for the fiscal year.

(Sec. 215, 58 Stat. 690, as amended; 42 U.S.C. 216. Interpret or apply sec. 314, 58 Stat. 693, as amended; 42 U.S.C. 246)

Dated: October 12, 1961.

[SEAL] LUTHER L. TERRY,
Surgeon General.

Approved: October 23, 1961.

WILBUR J. COHEN,
Acting Secretary.

[F.R. Doc. 61-10315; Filed, Oct. 30, 1961;
8:47 a.m.]

Proposed Rule Making

DEPARTMENT OF THE TREASURY

Bureau of Narcotics

[21 CFR Part 305]

NORPETHIDINE (ETHYL 4-PHENYL-4-PIPERIDINECARBOXYLATE), AND ONE OTHER DRUG

Addiction-Forming or Addiction-Sustaining Liability or Convertibility

Notice is hereby given pursuant to the provisions of section 4731(g) of the Internal Revenue Code of 1954 (26 U.S.C. 4731(g)), as amended by section 4(b) of the Narcotics Manufacturing Act of 1960 (74 Stat. 57), pursuant to 21 CFR 305.1, and pursuant to section 4 of the Administrative Procedure Act (60 Stat. 238, 5 U.S.C. 1003), and by virtue of the authority vested in me by the Secretary of the Treasury (Treasury Department Order No. 180-5, August 3, 1960, 25 F.R. 7544), that, after having considered the technical advice of the Secretary of Health, Education, and Welfare, a finding is proposed to be made that the following named drugs and their salts possess an addiction-forming or addiction-sustaining liability similar to morphine or are capable of conversion into drugs having an addiction-forming or addiction-sustaining liability similar to morphine with relative technical simplicity and degree of yield as to create a risk of improper use, and are opiates:

1. Norpethidine (ethyl 4-phenyl-4-piperidinecarboxylate).
2. Ethyl 1-(2-carbamylethyl)-4-phenyl-4-piperidinecarboxylate.

Consideration will be given to any written data, views or arguments pertaining to the proposed finding which are received by the Commissioner of Narcotics prior to December 4, 1961. Any person desiring to be heard on the proposed finding will be accorded the opportunity of a hearing in the office of the Commissioner of Narcotics, 1300 E Street NW., Washington 25, D.C., at 10:00 o'clock a.m., December 4, 1961, provided that such person furnishes written notice of his desire to be heard to the Commissioner of Narcotics, Washington 25, D.C., not later than 20 days from the publication of this notice in the FEDERAL REGISTER. If no written notice of a desire to be heard shall be received within 20 days from the date of publication of this notice in the FEDERAL REGISTER, no hearing shall be held.

[SEAL] HENRY L. GIORDANO,
Acting Commissioner of Narcotics.

Approved: October 24, 1961.

JAMES POMEROY HENDRICK,
Acting Assistant Secretary
of the Treasury.

[F.R. Doc. 61-10312; Filed, Oct. 30, 1961;
8:47 a.m.]

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

[9 CFR Part 74]

SCABIES IN SHEEP

Notice of Proposed Rule Making

Notice is hereby given in accordance with section 4 of the Administrative Procedure Act (5 U.S.C. 1003) that, pursuant to the provisions of the Act of May 29, 1884, as amended, the Act of February 2, 1903, as amended, and the Act of March 3, 1905, as amended (21 U.S.C. 111-113, 115, 117, 120, 123, 125), it is proposed to amend § 74.3(a) of Part 74, Subchapter C, Chapter I, Title 9, Code of Federal Regulations, by adding a new subparagraph (5) to read as follows:

(5) The following Counties in Michigan: Alger, Baraga, Chippewa, Delta, Dickinson, Gogebic, Houghton, Iron, Keweenaw, Luce, Mackinac, Marquette, Menominee, Ontonagon, and Schoolcraft Counties.

The proposed amendment would add the 15 above-named Counties in the State of Michigan to the eradication areas since the cooperative sheep scabies eradication program is now being conducted in such Counties. The entire State of Michigan is presently included in the infected areas as sheep scabies is known to exist in such State.

Any person who wishes to submit written data, views, or arguments concerning the proposed amendment may do so by filing them with the Director, Animal Disease Eradication Division, Agricultural Research Service, United States Department of Agriculture, Washington 25, D.C., within 45 days after publication of this notice in the FEDERAL REGISTER.

Done at Washington, D.C., this 26th day of October 1961.

B. T. SHAW,
Administrator,
Agricultural Research Service.

[F.R. Doc. 61-10345; Filed, Oct. 30, 1961;
8:52 a.m.]

Agricultural Stabilization and Conservation Service

[7 CFR Part 973]

[Docket No. AO-178-A12]

MILK IN MINNEAPOLIS-ST. PAUL, MINNESOTA, MARKETING AREA

Decision on Proposed Amendments to Tentative Marketing Agreement and to Order

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.),

and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held at Minneapolis, Minnesota, on July 6-7, 1961, pursuant to notice thereof issued June 24, 1961 (26 F.R. 5684).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Assistant Secretary on October 12 (26 F.R. 9751; F.R. Doc. 61-9911) filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto.

The material issues on the record of the hearing relate to:

1. Increasing the Class II milk price;
2. Changing the requirements for a plant to qualify as a pool plant;
3. Classification of sterilized cream; and
4. Pricing milk used to manufacture cottage cheese.

Findings and conclusions. The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. *Increasing the Class II milk price.* The Class II milk price should be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Minnesota and Wisconsin as reported by the United States Department of Agriculture.

The Class II price each month is currently determined by a formula, based on the prices of butter and nonfat dry milk, from which a manufacturing or processing allowance is deducted. The Twin Cities Milk Producers Association proposed that the Class II price be the average price paid for manufacturing grade milk at plants in Minnesota and Wisconsin (hereinafter referred to as the Minnesota-Wisconsin price). Other cooperatives supported the proposal and there was no opposition to it.

Fluid milk markets must have a supply of milk which includes some reserve in excess of Class I sales to accommodate daily and seasonal variations in the demand for Class I milk. The Class II price for such milk should be established at a level low enough to allow for its orderly disposition for manufacturing but should not be so low as to encourage excessive supplies of milk to be used only for manufacturing. The Class II price level has been lower than prices paid for ungraded milk by pool plants and nonpool plants in the area. Under these circumstances, development of supplies of Grade A milk in excess of a reasonable reserve for Class I use has been encouraged because under these circumstances milk costs to dairy product manufacturers may be reduced by using surplus Grade A rather than manufacturing grade milk.

At least seven plants pooled under the order receive manufacturing grade as well as Grade A milk. The average price paid per hundredweight of ungraded milk of 3.5 percent butterfat received at these plants during 1960 ranged from \$3.01 to \$3.20. The present Class II price formula for the same period averaged \$3.01. The average Minnesota-Wisconsin price in 1960, adjusted to a 3.5 percent butterfat basis by the Class II butterfat differential, was \$3.12.

The Class II price should be based on the competitive value of ungraded milk used in various manufactured products rather than on a formula which reflects fixed yield factors and processing costs associated with only two manufactured dairy products, namely, butter and non-fat dry milk. The Minnesota-Wisconsin price measures the competitive value of ungraded milk and, therefore, will better reflect the value of Class II milk than does the present formula.

In a highly competitive ungraded milk procurement area, individual manufacturing plants will tend to pay prices for milk which approximate pay prices of the most efficient plants in the area. As shifts occur in the relationship between returns of the various manufactured dairy products, processors engaged in manufacturing the most remunerative product will be able to pay the highest prices for milk. Processors of other less remunerative products must meet these prices or lose their supplies of milk.

The milkshed of the Twin Cities market is a highly competitive ungraded milk procurement area. It lies partly in Minnesota and partly in Wisconsin. Approximately 50 percent of the total manufacturing grade milk sold off farms in the United States is produced in these two States. In Minnesota and Wisconsin about 75 and 65 percent, respectively, of the milk sold off farms is manufacturing grade. The Minnesota-Wisconsin price is based upon the competitive pay prices for ungraded milk in these two States and would appropriately measure the value of Twin Cities surplus Grade A milk which must compete with ungraded milk for a market.

Information on prices paid at manufacturing plants in Wisconsin and Minnesota is assembled by the Statistical Reporting Service, United States Department of Agriculture. Plant operators report total pounds of manufacturing grade milk received from farmers, total butterfat content and total dollars paid for such milk, f.o.b. plant. These prices are available on a monthly basis and can be announced on or before the fifth day of the following month.

The average of the prices paid farmers in the various states for manufacturing grade milk, as reported by the Statistical Reporting Service, United States Department of Agriculture, is at the weighted average butterfat test of such milk. Since Order 73 prices are announced on a 3.5 percent butterfat basis, it is necessary that the announced Minnesota-Wisconsin price be adjusted to this basis. Official notice is here taken of the amendment to the Chicago order which became effective September 1, 1961 (26 F.R. 7957). This amendment provides for using the Minnesota-Wis-

consin price as the Class III price and adjusting it to a 3.5 percent basis by a differential equal to the average quotation for the month for Grade A (92-score) butter at Chicago times .12. This factor is an appropriate and representative value of butterfat in the Minneapolis-St. Paul milkshed and should likewise be used in the order for adjusting the announced Minnesota-Wisconsin price to a 3.5 percent basis.

2. *Changing the requirements for a plant to qualify as a pool plant.* No change should be made in the Class I disposition or the shipping percentages pursuant to which plant pool status is determined. However, July should be excluded as one of the months during which specified minimum shipments to distributing plants qualify a supply plant as a pool plant during subsequent flush production months.

The order now provides pool status for a distributing plant if at least 40 percent of receipts of eligible Grade A skim milk and butterfat at the plant during the month is disposed of as Class I milk during any of the months of January through June and if 60 percent of such receipts is so disposed of during the month in any of the months of July through December. A supply plant is pooled if during the month at least 50 percent of Grade A receipts from farmers is delivered to distributing plants which are pool plants. Supply plants which so ship at least 50 percent of such receipts during each of the months of July through October may be pooled during each of the immediately following months of November through June.

Three proposals were made to lower the pooling percentage standards. One would provide pool status for a distributing plant during any month in which at least 35 percent of Grade A receipts at the plant is disposed of as Class I. Another would substitute 20 and 30 percent Class I distribution percentages in lieu of the present 40 and 60 percent. The third would lower the shipping percentages which supply plants must meet to obtain pool status.

Distributing plants serving the Minneapolis-St. Paul area generally receive their supplies of milk from cooperative associations. When milk is not needed for bottling purposes at the distributing plants it is disposed of for manufacturing purposes by the cooperative associations. Under such a milk marketing arrangement, distributing plants dispose of a relatively high percentage of receipts as Class I utilization.

There was no showing that any distributing plant either has had, or is likely to have, a utilization percentage which would be so low as to interfere with its retaining pool plant status under present provisions. Consequently, there is no need to make a change in the pool plant standards for distributing plants at this time.

Distributing plants pooled by the Minneapolis-St. Paul order receive milk directly from farms and from supply plants. A supply plant is pooled in any month when at least 50 percent of its receipts of Grade A milk is shipped to pool distributing plants. A supply plant which meets the 50 percent shipping re-

quirement in the short production months may remain pooled during the following flush production months. Supply plants which meet the 50 percent shipping requirement are clearly associated with supplying milk to meet the fluid demand of the market and such plants should participate in the pool.

Lowering the supply plant shipping percentage as proposed would enable a supply plant which shipped 30 percent of Grade A receipts in each of the short production months to pool its entire receipts of Grade A milk from dairy farmers during a 12-month period. Supply plants shipping to the market such a relatively small proportion of receipts are clearly not largely engaged in supplying the fluid demand of the market, and, therefore, should not participate in the pool.

A supply plant from which 50 percent of Grade A receipts is shipped to pool distributing plants during each month of August, September and October may retain pool status for the immediately following November through July period. The order now provides that a plant may obtain pool status for the following November through June period by shipping 50 percent of Grade A receipts to distributing plants that are pool plants in each of the months of July through October.

Historically, July has been a month during which supplies of milk have been relatively short in relation to Class I demand and, therefore, a month during which distributing plants called upon supply plants to supplement producer milk delivered directly to the distributing plants. In recent years, July has become a relatively flush production month and there has developed less need for distributing plants to call upon supply plants for supplemental milk. Producer milk in Class I declined from 69 percent in 1956 to 56 percent in 1961. (Official notice is taken of the market administrator's statistical summary for July 1961.)

The order previously treated as a separate plant only those facilities which are maintained as a separate unit within which milk subject to the pricing of another Federal order is handled. On June 7, 1961, the Secretary issued a suspension order (26 F.R. 5219) which extended the two plant concept to those separate facilities which handle milk not priced pursuant to another order.

The suspension action of the Secretary will contribute to the most efficient utilization of economic resources and not cause disorderly marketing of milk in the Minneapolis-St. Paul marketing area. Economic efficiency will be encouraged if separate facilities share common land use, electrical inlets and waste disposal rather than if two separate buildings are constructed on separate plots of land with separate electrical inlets and waste disposal systems. The classification and transfer provisions of the order in conjunction with the market administrator's authority to inspect the books and records of any plant (including separate facilities) receiving milk from pool sources will assure that the intent and provisions of the order are not evaded. Therefore, the order should be amended

to incorporate the effect of the suspension action.

3. *Classification of sterilized cream.* Sterilized cream in hermetically sealed metal containers should be classified as Class II utilization.

The order now classifies sterilized milk and milk drinks in hermetically sealed metal containers as Class II. It was proposed that similarly packaged sterilized cream be also classified and priced as Class II utilization. No opposition to the proposal was offered.

Sterilized cream need not be made from Grade A milk. It is not subject to the bacteriological temperature, pasteurization and other health standards applicable to fresh fluid cream, and it cannot be labeled as "cream". The State of Wisconsin specifically excludes from its Grade A law "any product which is heat sterilized and in hermetically sealed containers".

Sterilized cream in hermetically sealed containers need not be distributed through the usual marketing channels through which fresh fluid cream is distributed. The product, because of its greater keeping qualities, can be disposed of to warehouses from which it may be distributed over wide areas.

4. *Pricing milk used in the manufacture of cottage cheese.* No change should be made in the classification and pricing of milk used in the manufacture of cottage cheese.

The order now classifies and prices as Class II that milk used to make cottage cheese. It was proposed that milk so used be classified as Class I-A and priced 30 cents more per hundred-weight than milk used for other Class II uses.

While the applicable health ordinances require that cottage cheese sold in Minneapolis and St. Paul must be made from Grade A milk, some of the cottage cheese distributed in the two cities is manufactured at plants outside the limits of the two cities which are not regulated by the order. These outside area plants would not be required to pay the higher price for milk used in cottage cheese. In addition, large volumes of the cottage cheese made at regulated plants is distributed outside of the two cities where it competes for a market with cottage cheese made at plants not regulated by the order.

In his exception, proponent argues that only a relatively small portion of the cottage cheese sold in the market is from plants located elsewhere. Any price for milk used for cottage cheese which is higher than the value of milk used for manufacturing purposes will tend to increase the volume of cottage cheese sales from outside sources in that such sources will have a competitive advantage in raw product costs. This could have the effect of causing additional pool milk to be used in lower valued surplus uses. However, of course, the price for milk used for cottage cheese is being increased under the provisions of this decision.

Rulings on proposed findings and conclusions. Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and

the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General findings. The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendment thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to Section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the proposed marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Rulings on exceptions. In arriving at the findings and conclusions, and the regulatory provisions of this decision, each of the exceptions received was carefully and fully considered in conjunction with the record evidence pertaining thereto. To the extent that the findings and conclusions, and the regulatory provisions of this decision are at variance with any of the exceptions, such exceptions are hereby overruled for the reasons previously stated in this decision.

Marketing agreement and order. Annexed hereto and made a part hereof are two documents entitled respectively, "Marketing Agreement Regulating the Handling of Milk in the Minneapolis-St. Paul, Minnesota, Marketing Area", and "Order Amending the Order Regulating the Handling of Milk in the Minneapolis-St. Paul, Minnesota, Marketing Area", which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, That all of this decision, except the attached marketing agreement, be published in the FEDERAL REGISTER. The regulatory provisions of said marketing agreement are identical

with those contained in the order as hereby proposed to be amended by the attached order which will be published with this decision.

Determination of representative period. The month of July 1961 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the attached order amending the order regulating the handling of milk in the Minneapolis-St. Paul, Minnesota, marketing area, is approved or favored by producers, as defined under the terms of the order as hereby proposed to be amended, and who, during such representative period, were engaged in the production of milk for sale within the aforesaid marketing area.

Signed at Washington, D.C., on October 26, 1961.

JAMES T. RALPH,
Assistant Secretary.

Order¹ Amending the Order Regulating the Handling of Milk in the Minneapolis-St. Paul, Minnesota, Marketing Area

§ 973.0 Findings and determinations.

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Minneapolis-St. Paul, Minnesota, marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

¹ This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

(3) The said order as hereby amended, regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

Order relative to handling. It is therefore ordered, that on and after the effective date hereof, the handling of milk in the Minneapolis-St. Paul, Minnesota, marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as hereby amended, and the aforesaid order is hereby amended as follows:

§ 973.9 [Amendment]

1. In § 973.9(b) delete "July" wherever it appears.
2. In § 973.9(b) (1) replace "June" with "July".
3. In § 973.9(c) replace "July" with "August".

§ 973.41 [Amendment]

4. In § 973.41(a) replace "sterilized milk or milk drinks" with "sterilized milk, cream or milk drinks".
5. Replace § 973.54 with the following:

§ 973.54 Class II price.

The price per hundredweight for Class II milk shall be the average price per hundredweight for manufacturing grade milk, f.o.b. plants in Wisconsin and Minnesota, as reported by the Department of Agriculture for the month: *Provided*, That such reported price shall be adjusted to a 3.5 percent butterfat basis by a butterfat differential, rounded to the nearest one-tenth cent, obtained by multiplying 0.12 by the simple average, as computed by the market administrator, of the daily wholesale selling prices (using the midpoint of any price range as one price) of Grade A (92-score) bulk creamery butter per pound at Chicago, as reported by the Department of Agriculture for the month.

§ 973.8 [Amendment]

6. In § 973.8 delete "which is subject to the class price provisions of another milk marketing agreement or order issued pursuant to the Act".

[F.R. Doc. 61-10317; Filed, Oct. 30, 1961; 8:48 a.m.]

[7 CFR Part 994]

[Docket No. AO-300-A3]

MILK IN COLORADO SPRINGS-PUEBLO MARKETING AREA

Decision on Proposed Amendments to Tentative Marketing Agreement and to Order

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held at Colorado Springs, Colorado, on October 5, 1961, pursuant to notices thereof issued on September 25 and 27, 1961 (26 F.R. 9173 and 9238).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Acting Secretary, on October 16, 1961 (26 F.R. 9869; F.R. Doc. 61-10019) filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto. No exceptions were filed.

The material issues on the record of the hearing relate to:

1. Classification and pricing;
2. Allocation of packaged milk received from plants regulated by another Federal order;
3. Diversions of producer milk between pool plants; and
4. Miscellaneous administrative and conforming changes.

Findings and conclusions. The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. The classification and pricing provisions of the Colorado Springs-Pueblo order should be amended to conform with similar provisions of the Eastern Colorado order. Proposals to accomplish this were submitted by both producers and handlers.

Substantial differences exist in the classification and pricing under the Colorado Springs-Pueblo order and the Eastern Colorado order, which order becomes fully effective on November 1, 1961. The Class I price under the Eastern Colorado order has been set at a level which is 10 cents per hundredweight less than the Class I price now contained in the Colorado Springs-Pueblo order. There is also a small difference in the level of the Class II prices.

Certain products now classified and priced as Class I under the Colorado Springs-Pueblo order are included in Class II under the Eastern Colorado order. These include the skim equivalent of nonfat solids used in fortified products, cultured mixtures marketed as cheese dips, party dips, etc., and fluid milk products disposed of to commercial food manufacturers.

The marketing area for the Eastern Colorado order is contiguous to the Colorado Springs-Pueblo marketing area. It is about 70 miles from Denver, Colorado, the principal city in the Eastern Colorado marketing area to Colorado Springs, Colorado, the principal city in the Colorado Springs-Pueblo marketing area.

The sales territories of handlers to be fully regulated by the Eastern Colorado order overlap considerably with those of Colorado Springs handlers. Eastern Colorado handlers distribute substantial amounts of fluid milk products in the Colorado Springs-Pueblo marketing area. Colorado Springs-Pueblo handlers have considerable sales in the Eastern Colorado market. Much of the territory in between the city of Denver and the city of Colorado Springs forms a common sales area for handlers regulated by both of these orders.

One regulated plant's Class I disposition in the Eastern Colorado marketing area is only slightly less than its Class I disposition in the Colorado Springs-Pueblo marketing area. This plant op-

erator testified that a very slight change in his marketing practices could result in his Colorado Springs-Pueblo plant being regulated by the Eastern Colorado order. He pointed out that the differences which now exist between the two orders could result in serious inequities if his plant remained regulated under the Colorado Springs-Pueblo order.

A handler with a plant under each of the Colorado Springs-Pueblo and Eastern Colorado orders stated that an important consideration in determining which plant would supply his Colorado Springs-Pueblo outlets would be the cost at which the various products disposed of could be obtained. This handler's Eastern Colorado order plant is already a source of certain fluid milk products which are not processed in his Colorado Springs-Pueblo plant.

One other handler operates plants under both of the orders. Although this handler did not testify concerning his operations under the two orders, it is not unreasonable to expect that the same considerations as to source of supply would be applicable to him.

Although the most important source of competition among handlers is in the sales of products under the two orders, there is also some overlapping of producers between the two markets. This overlapping exists primarily in an area northeast of Colorado Springs.

Failure to promptly amend the classification and pricing provisions of the Colorado Springs-Pueblo order to conform with such provisions of the Eastern Colorado order will result in serious marketing problems in the Colorado Springs-Pueblo market. With substantial differences in the classification and pricing provisions existing under the two orders, it would be impossible for Colorado Springs-Pueblo handlers to compete effectively with Eastern Colorado order handlers in their regular sales areas between Denver and Colorado Springs. Furthermore, the evidence clearly shows that many regulated handlers can readily substitute milk classified and priced under the Eastern Colorado order for the milk of local producers. Loss of substantial outlets to plants regulated by the Eastern Colorado order would result in serious hardships to those producers who have assumed the responsibility of supplying the Colorado Springs-Pueblo market.

a. Classification of milk. Class I should include all skim milk and butterfat disposed of in fluid form as milk, skim milk, buttermilk, flavored milk, flavored milk drinks, concentrated milk, reconstituted milk or skim milk, fortified milk or skim milk (including "diet foods"), cream (sweet or sour) and half and half. It should also include any mixture of milk of skim milk and cream except ice cream mix, aerated cream, eggnog, and cultured mixtures marketed as "dip specialty products". It should not include the products named when sterilized or packaged in hermetically sealed containers.

As presently provided, "dip specialty products" are classified and priced as Class I. Fortified fluid milk products, including any water associated with ad-

ditional nonfat milk solids used in the production of such products, are classified and priced under the present order as Class I. This classification should continue but only with respect to the weight of an equal volume of unfortified milk, skim milk, or cream of the same butterfat content. Any additional nonfat milk solids used in the production of fortified fluid milk products and the water originally associated with such additional solids should be classified and priced as Class II.

The dip specialty items classified as Class II should be limited to those containing not less than three percent cheese or other food substances other than a milk product. This will not only provide classification similar to the Eastern Colorado order, but will conform with the formulas used by regulated handlers.

Class II should also include fluid milk products disposed of in bulk form to any commercial food processing establishment for use in food products prepared for consumption off the premises. Although there apparently is no pool milk used for such purposes, this will provide classification similar to that of the Eastern Colorado order and will insure that Colorado Springs-Pueblo handlers will have an equal opportunity for such markets if they become available.

b. *Class prices and Class I butterfat differential.* The Class I price per hundredweight of milk containing 3.5 percent butterfat would be established by adding \$2.10 to the basic formula price now contained in the order. The present Class I price is established at \$2.20 over this basic formula price. This price is the same as is contained in the Eastern Colorado order. As hereinbefore discussed, this price level is necessary to prevent the disruption of the normal supply sources for the Colorado Springs-Pueblo market and to prevent an unwarranted price advantage accruing to Eastern Colorado regulated handlers.

This price level will, of course, eliminate any necessity for additional payments on milk distributed in the Colorado Springs-Pueblo marketing area from plants regulated by the Eastern Colorado order. The Secretary's decision which resulted in the promulgation of the Colorado Springs-Pueblo order stated that such payments need not be required on milk classified and priced under any other Federal order. The order should be clarified in this regard.

The Eastern Colorado Class I price has been established for an interim period of 18 months. The Colorado Springs-Pueblo Class I price also should be established for a similar period to provide an opportunity for reconsideration of the level of such price at the same time the Eastern Colorado Class I price is reconsidered.

The Class II price for the months of March through July should be established at the level of the butter-powder formula contained in the basic formula price. During all other months it should be such butter-powder price plus 10 cents. However, the Class II price should not exceed the basic formula price in any month. The Class II price in the months August through February is now

the higher of this butter-powder price or the average of the prices paid at specified manufacturing plants in Wisconsin and Michigan, and the higher of such prices less 20 cents in all other months.

In 1960 this price formula would have resulted in a Class II price averaging \$3.026. The Class II price for the year 1960, as announced by the market administrator, averaged \$3.068. It is not expected that this change will make any substantial difference in the cost of Class II milk under the order. However, this Class II price level is contained in the Eastern Colorado order and the interests of orderly marketing will be served by providing the same price level in the Colorado Springs-Pueblo market.

The Class I butterfat differential should be computed by multiplying by 1.30 the Chicago Grade A (92-score) butter price specified in the basic formula. The Class I butterfat differential is now computed by multiplying such butter price by 1.40. This amendment will not result in any change in the cost to handlers of milk containing 3.5 percent butterfat. It will, however, change slightly the proportion of the Class I price assigned to each of the skim milk and butterfat components of Class I milk and will serve to provide equal costs with Eastern Colorado order handlers in the markets for products containing more or less than 3.5 percent butterfat.

2. Allocation of packaged milk received from plants regulated by another Federal order: Provision should be made to allocate to Class I milk, packaged fluid milk products subject to the Class I pricing provisions of the Eastern Colorado milk order and sour cream received from any Federal milk order when it is classified as Class I or its equivalent value. This will have the effect of giving the same treatment to such items moved from a plant under such order whether distributed directly to consumers in the marketing area from such plant, as is the case in the Colorado Springs-Pueblo market, or imported through a Colorado Springs-Pueblo plant. One of the Colorado Springs-Pueblo handlers operating plants subject to the Eastern Colorado order testified that this provision will allow him to continue to receive at his Colorado Springs plant, certain products which are not processed in such plant.

To assure that the provision will not encourage the movement of such products if they are available in the Colorado Springs-Pueblo plant, the provision should be limited to only those products which are not processed in the pool plant during the month.

3. Diversions between pool plants: The order should be amended to eliminate diversions of producer milk between pool plants. Although such movements would be allowed under the amended provision, the effect of the change would be to change the accounting for milk so moved.

As now provided, a handler diverting producer milk to another handler's pool plant accounts for such milk as a receipt of producer milk at his plant and as a transfer to the receiving handler's plant. The change will provide that the

receiving handler account for the milk as a receipt of producer milk.

The principal association of producers in the market collects payment for its members' milk. Each handler receiving milk from cooperative members pays money due such members directly to the cooperative association. It will facilitate the accounting for milk moved between pool plants if the handler actually receiving such milk accounts for it as a receipt of producer milk and pays the cooperative association at least the applicable order price. This change will not affect handlers' costs with respect to such milk and was unopposed at the hearing.

4. Miscellaneous and conforming changes.

a. One of the formulas used in determining the basic formula price, which is used in calculating the Colorado Springs-Pueblo Class I price, is the average of the prices paid for milk received from dairy farmers at specified plants in Wisconsin and Michigan, known as the "Midwestern Condenseries". Of the 12 plants now listed in the order, three (Borden Company, Mount Pleasant, Michigan; Carnation Company, Sparta, Michigan; and Carnation Company, Oconomowoc, Wisconsin) are no longer in operation. Accordingly, only the nine plants now operating should be listed in the attached order as the plants whose prices paid to dairy farmers shall be used in determining the basic formula price under the order.

b. Shrinkage should be allocated over a handler's receipts in a manner similar to that provided by the Eastern Colorado order. This change will have very little effect on regulated plants' operations. However, when regulated handlers have receipts of other source milk it will give equitable treatment to pool milk by avoiding duplication in prorating shrinkage between pool milk and other source milk. Accordingly, when a handler has receipts of other source milk shrinkage shall be prorated between:

(1) Skim milk and butterfat in pool milk in amounts respectively equal to 50 times the maximum amounts that may be computed pursuant to § 994.41(b) (7); and

(2) Skim milk and butterfat in other source milk.

c. If a handler is purchasing milk from a cooperative association on the basis of farm tank weights, the weights and butterfat tests as determined from stick readings and butterfat samples taken at the farm should form the basis for computing any shrinkage allowance. This is clearly intended in the case of butterfat tests and it was urged at the hearing that the provision of the order be made specific in this regard.

d. Changes made in the allocation provisions will require minor conforming changes in other provisions of the order. Those changes are necessary to make the entire order conform with these amendments and will not alter the effect of the order.

Rulings on proposed findings and conclusions. Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs,

proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General findings. The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the proposed marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Marketing agreement and order. Annexed hereto and made a part hereof are two documents entitled respectively, "Marketing Agreement Regulating the Handling of Milk in the Colorado Springs-Pueblo Marketing Area", and "Order Amending the Order Regulating the Handling of Milk in the Colorado Springs-Pueblo Marketing Area", which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered. That all of this decision, except the attached marketing agreement, be published in the FEDERAL REGISTER. The regulatory provisions of said marketing agreement are identical with those contained in the order as hereby proposed to be amended by the attached order which will be published with this decision.

Determination of representative period. The month of August 1961 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the attached order amending the order regulating the handling of milk in the Colorado Springs-Pueblo marketing area, is ap-

proved or favored by producers, as defined under the terms of the order as hereby proposed to be amended, and who, during such representative period, were engaged in the production of milk for sale within the aforesaid marketing area.

Signed at Washington, D.C., on October 26, 1961.

JAMES T. RALPH,
Assistant Secretary.

Order¹ Amending the Order Regulating the Handling of Milk in the Colorado Springs-Pueblo Marketing Area

§ 994.0 Findings and determinations.

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) **Findings upon the basis of the hearing record.** Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900), a public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Colorado Springs-Pueblo marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended, regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

Order relative to handling. It is therefore ordered, that on and after the effective date hereof, the handling of milk in the Colorado Springs marketing area shall be in conformity to and in

¹ This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

compliance with the terms and conditions of the aforesaid order, as hereby amended, and the aforesaid order is hereby amended as follows:

1. Amend § 994.14 to read as follows:

§ 994.14 Fluid milk products.

"Fluid milk products" means milk, skim milk, buttermilk, flavored milk, flavored milk drinks, reconstituted milk or skim milk, fortified milk or skim milk (including "diet" foods), cream (sweet or sour), half and half, or any mixture in fluid form of milk or skim milk and cream (except ice cream mix, frozen dessert mix, aerated cream, eggnog, cultured sour mixture to which cheese or any food substance other than a milk product has been added in an amount not less than three percent by weight of the finished product), which are neither sterilized or in hermetically sealed containers.

2. Amend § 994.41 to read as follows:

§ 994.41 Classes of utilization.

Subject to the conditions set forth in §§ 994.42 through 994.46, the classes of utilization shall be as follows:

(a) **Class I milk.** Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product except:

(i) Any products fortified with added nonfat milk solids shall be Class I in an amount equal only to the weight of an equal volume of milk, skim milk, or cream of the same butterfat contents; and

(ii) As classified pursuant to paragraph (b) (2), (3) and (5) of this section; or

(2) Not specifically accounted for as Class II utilization.

(b) **Class II milk.** Class II milk shall be all skim milk and butterfat:

(1) Used to produce any product other than a fluid milk product;

(2) Disposed of as livestock feed;

(3) In skim milk dumped after prior notification to and opportunity for verification by the market administrator;

(4) The weight of skim milk in fluid milk products which is excepted from Class I milk pursuant to paragraph (a) (1) (i) of this section;

(5) Disposed of in fluid milk products in bulk form to any commercial food processing establishment for use in food products prepared for consumption off the premises;

(6) In inventory of fluid milk products on hand at the end of the month;

(7) In shrinkage of skim milk and butterfat, respectively, not to exceed the following:

(i) Two percent of receipts of producer milk described in § 994.12(a) (1); plus

(ii) 1.5 percent of receipts from a cooperative association in its capacity as a handler pursuant to § 994.9(d), except that if the handler operating the pool plant files with the market administrator notice that he is purchasing such milk on the basis of farm weights determined by farm bulk tank calibrations and butterfat tests determined from farm tank samples, the applicable percentage shall be two percent; plus

(iii) 1.5 percent of receipts in bulk tank lots from other pool plants; less

(iv) 1.5 percent of disposition in bulk tank lots to other milk plants; and plus

(v) 0.5 percent of receipts of producer milk by a cooperative association which is the handler pursuant to § 994.9(d), unless the exception provided in § 994.41 (b) (7) (ii) applies; and

(8) In shrinkage allocated to receipts of other source milk.

3. Amend § 994.42 to read as follows:
§ 994.42 Shrinkage.

The market administrator shall allocate shrinkage over a handler's receipts at each of his pool plants as follows:

(a) Compute the total shrinkage of skim milk and butterfat, respectively, at each pool plant; and

(b) If a handler has receipts of other source milk, shrinkage shall be prorated between:

(1) Skim milk and butterfat in pool milk in amounts respectively equal to 50 times the maximum amount that may be computed pursuant to § 994.41 (b) (7); and

(2) Skim milk and butterfat in other source milk.

4. Amend § 994.44(a) by deleting therefrom the words "or diverted".

5. Amend § 994.46 to read as follows:
§ 994.46 Allocation of skim milk and butterfat classified.

After making the computations pursuant to § 994.45, the market administrator shall determine the classification of milk received from producers at each pool plant as follows:

(a) Skim milk shall be allocated in the following manner:

(1) Subtract from the total pounds of skim milk in Class II the pounds of skim milk allocated in shrinkage of skim milk classified as Class II pursuant to § 994.41 (b) (7);

(2) Subtract from the total pounds of skim milk in Class I the pounds of skim milk in other source milk received:

(i) In the form of a fluid milk product in consumer type packages which are classified and priced as Class I milk under Order No. 1, regulating the handling of milk in the Eastern Colorado marketing area if such fluid milk products are not processed and packaged in the pool plant during the month; or

(ii) In the form of sour cream which is classified and priced as Class I or its equivalent value under another order issued pursuant to the Act.

(3) Subtract from the pounds of remaining skim milk in each class, in series beginning with Class II, the pounds of skim milk in other source milk received in the form of a product other than a fluid milk product;

(4) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk in other source milk received in the form of a fluid milk product not classified and priced as Class I milk or its equivalent value under another order issued pursuant to the Act;

(5) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of

skim milk in other source milk received in the form of a fluid milk product not subtracted pursuant to subparagraphs (2) and (4) of this paragraph;

(6) Subtract from the pounds of skim milk remaining in each class, in series beginning with Class II, the pounds of skim milk contained in inventory of fluid milk products on hand at the beginning of the month;

(7) Add to the pounds of skim milk remaining in Class II the pounds of skim milk subtracted pursuant to subparagraph (1) of this paragraph;

(8) Subtract from the pounds of skim milk remaining in each class the pounds of skim milk received from other pool plants according to its classification as determined pursuant to § 994.44(a);

(9) Subtract pro rata from the remaining pounds of skim milk in each class the pounds of skim milk classified pursuant to § 994.44(f); and

(10) If the remaining pounds of skim milk in both classes exceeds the pounds of skim milk contained in milk received from producers, subtract such excess from the remaining pounds of skim milk in series beginning with Class II. Any amount so subtracted shall be known as "overage".

(b) Butterfat shall be allocated in accordance with the same procedure outlined for skim milk in paragraph (a) of this section; and

(c) Add the pounds of skim milk and the pounds of butterfat allocated to producer milk in each class, pursuant to paragraphs (a) and (b) of this section and determine the percentage of butterfat in each class.

6. Amend § 994.50 by deleting from section (a) thereof the following designated plants:

Borden Co., Mount Pleasant, Mich.
 Carnation Co., Oconomowoc, Wis.
 Carnation Co., Sparta, Mich.

7. Amend § 994.51 to read as follows:
§ 994.51 Class prices.

Subject to the provisions of §§ 994.52 and 994.53, the class price per hundredweight for the month shall be as follows:

(a) *Class I milk.* During the first 18 months following the effective date of this paragraph, the basic formula price for the preceding month plus \$2.10; and

(b) *Class II milk.* During the months of March through July, the price specified in § 994.50(b), and during all other months such price plus 10 cents: *Provided*, That such price shall not be higher than the basic formula price for the month.

8. Amend § 994.53 by deleting from section (a) thereof the number "1.40" and replacing such number with the number "1.30".

9. Delete the word "pool" from § 994.61 (b) and amend § 994.61(b)(1) to read as follows:

(1) Such plant is qualified as a pool plant pursuant to § 994.7(a) and more Class I milk is disposed of from such plant on routes in the Colorado Springs-Pueblo marketing area than in the mar-

keting area regulated pursuant to such other order, or

10. In § 994.70 make the following changes:

In paragraph (b) delete "§ 994.46 (a) (8)" and substitute "§ 994.46 (a) (10)"; in paragraph (c) delete "§ 994.46 (a) (5)" and substitute "§ 994.46 (a) (6)"; and delete paragraph (d) and substitute the following:

(d) Add the amount computed in subparagraphs (1) and (2) of this paragraph;

(1) Multiply the hundredweight of skim milk and butterfat subtracted from Class I milk pursuant to § 994.46 (a) (3) and the corresponding step of § 994.46(b) by the difference between the Class II price and the Class I price for the current month, adjusted by the applicable butterfat differentials; and

(2) For any skim milk or butterfat subtracted from Class I milk pursuant to § 994.46 (a) (4) and the corresponding step of § 994.46(b) and pursuant to § 994.46 (a) (6) and the corresponding step of § 994.46(b) which is in excess of the skim milk and butterfat applied pursuant to paragraph (c) of this section, add an amount equal to the differences between the values of such skim milk and butterfat at the Class I price and at the Class II price: *Provided*, That such calculations shall not apply if the total receipts of producer milk at pool plants during the month are less than 110 percent of the total Class I utilization of such plants for the month.

11. In § 994.44(f) delete "§ 994.46 (a) (6)" and substitute therefor "§ 994.46 (a) (7)".

[F.R. Doc. 61-10318; Filed, Oct. 30, 1961; 8:48 a.m.]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 120]

TOLERANCES AND EXEMPTIONS FROM TOLERANCES FOR PESTICIDE CHEMICALS IN OR ON RAW AGRICULTURAL COMMODITIES

Notice of Filing of Petition for Establishment of Tolerance for Residues of 1-Naphthyl N-Methylcarbamate

Pursuant to the provisions of the Federal Food, Drug, and Cosmetic Act (sec. 408(d)(1), 68 Stat. 512; 21 U.S.C. 346a (d)(1)), notice is given that a petition has been filed by Union Carbide Corporation, 270 Park Avenue, New York 17, New York, proposing the establishment of a tolerance of 10 parts per million for residues of 1-naphthyl N-methylcarbamate in or on asparagus.

The analytical method proposed in the petition for determining residues of 1-naphthyl N-methylcarbamate is that described in the FEDERAL REGISTER of January 9, 1959 (24 F.R. 238), except that the method determines simultaneously the

total residues of 1-naphthyl *N*-methylcarbamate and free 1-naphthol.

Dated: October 24, 1961.

ROBERT S. ROE,
*Director, Bureau of Biological
and Physical Sciences.*

[F.R. Doc. 61-10314; Filed, Oct. 30, 1961;
8:47 a.m.]

DEPARTMENT OF LABOR

Office of the Secretary

[29 CFR Part 4]

ROOFING OPERATIONS AS OCCUPATIONS PARTICULARLY HAZARDOUS FOR THE EMPLOYMENT OF MINORS

In accordance with the procedure governing determinations of hazardous occupations (29 CFR Part 4, Subpart D; 26 F.R. 5005), an investigation has been conducted for the purpose of ascertaining which, if any, occupations in roofing operations are particularly hazardous for the employment of minors between 16 and 18 years of age or detrimental to their health or well-being and thus constitute oppressive child labor as defined in section 3(1) of the Fair Labor Standards Act of 1938 (52 Stat. 1060, as amended; 29 U.S.C. 201 et seq.).

A report of investigation, entitled "Occupational Hazards to Young Workers, Report No. 16, Roofing Operations," has been submitted by the Bureau of Labor Standards. The report shows that all occupations in roofing operations are dangerous, more dangerous than construction generally, and the incidence of injuries is four times as great as manufacturing; the presumption is that the hazards faced by young workers in roofing operations are four times as great as in manufacturing generally. Copies of this report are available to interested persons upon request to the Bureau of Labor Standards, United States Department of Labor, Washington 25, D.C.

On the basis of such conclusions and pursuant to authority in section 3(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203) and Reorganization Plan No. 2 of 1946 (3 CFR, 1943-1948 Comp., p. 1064), and in accordance with 29 CFR Part 4, Subpart D, it is proposed to issue a finding and order which shall declare all occupations in roofing operations to be particularly hazardous for the employment of children between 16 and 18 years of age, and to define the term "roofing operations" as follows:

The term "roofing operations" shall mean all work performed in connection with the application of weatherproofing materials and substances (such as tar or pitch, asphalt prepared paper, tile, slate, metal, translucent materials, and shingles of asbestos, asphalt or wood) to roofs of buildings or other structures. The term shall also include all work performed in connection with (1) the installation of roofs, including related metal work and alterations, (2) additions, maintenance and repair including painting and coating of existing roofs. The term shall not include work performed

in construction of the sheathing or base on roofs or the installation of television antennas, air conditioners, exhaust and ventilating equipment on roofs.

It is also proposed that special exemptions should be made for apprentices and student-learners engaged in roofing operations under appropriate safeguard.

Accordingly, notice is hereby given of proceedings to be held on November 30, 1961, commencing at 10 o'clock a.m. in Room 5223 of the United States Department of Labor, Constitution Avenue and 14th Street NW., Washington, D.C., to be conducted in accordance with the procedure prescribed in 29 CFR 4.45 (26 F.R. 5006), at which time interested parties may appear and present data, views, and arguments with respect to this proposal. All interested persons desiring to appear are requested to notify the Secretary of Labor no later than November 29, 1961. Written data, views, and arguments submitted on or prior to this date by persons unable to appear personally will be made a part of the record of these proceedings.

Signed at Washington, D.C., this 23d day of October 1961.

ARTHUR J. GOLDBERG,
Secretary of Labor.

[F.R. Doc. 61-10311; Filed, Oct. 30, 1961;
8:46 a.m.]

CIVIL AERONAUTICS BOARD

[14 CFR Part 289]

[Economic Reg. Docket No. 13134]

EXEMPTING CERTIFICATED ROUTE AIR CARRIERS FROM FILING CERTAIN AGREEMENTS

Proposed Expansion of Scope

OCTOBER 25, 1961.

Notice is hereby given that the Civil Aeronautics Board has under consideration amendments to Part 289 of the Economic Regulations (14 CFR Part 289) which would expand the scope of the exemption contained therein to include certain additional types of agreements and make the exemption applicable to certain agreements in which supplemental air carriers and indirect air carriers are parties. The principal features of the proposed amendments are explained in the attached Explanatory Statement.

These amendments are proposed under the authority of sections 101(3), 204(a), and 416(b) of the Federal Aviation Act of 1958, as amended (72 Stat. 737, 743, and 771; 49 U.S.C. 1301, 1324, and 1386).

Interested persons may participate in the proposed rule making through submission of ten (10) copies of written data, views or arguments pertaining thereto to the Docket Section, Civil Aeronautics Board, Washington 25, D.C. All relevant matter in communications received on or before November 29, 1961, will be considered by the Board before taking final action on the proposed rule. Copies of such communications will be available for examination

by interested persons in the Docket Section of the Board, Room 711, Universal Building, 1825 Connecticut Avenue NW., Washington 25, D.C., upon receipt thereof.

By the Civil Aeronautics Board.

[SEAL] HAROLD R. SANDERSON,
Secretary.

EXPLANATORY STATEMENT

Section 412(a) of the Federal Aviation Act of 1958, requires air carriers which are parties to certain contracts or agreements affecting air transportation to file copies thereof with the Board.

The Board, pursuant to its exemption authority contained in section 416(b) of the Act adopted Part 289 (14 CFR Part 289), effective August 12, 1960, which exempted certificated route air carriers from filing with the Board certain types of routine agreements which are required to be filed pursuant to section 412 of the Act. In granting this exemption, the Board stated that experience has shown that certain types of agreements are of such a routine nature that their review by the Board accomplishes little toward the effective regulation of air carriers. The Board further stated, and the regulation so provides, that the exemption granted by Part 289 does not apply to agreements violative of the "antitrust laws" as that term is defined in section 1 of the "Clayton Act."

The Board, in the light of the experience now gained under Part 289, proposes to expand the applicability of the exemption to include other types of relatively insignificant agreements and certain amendments to agreements. The Board believes that its review of the agreements described below is not essential to the effective regulation of air carriers and that to continue to require the filing of such agreements may be an undue burden on such air carriers and not in the public interest within the meaning of section 416(b) of the Act. As with respect to the existing regulation, no anti-trust immunity under the provisions of section 414 of the Act would be conferred on parties to agreements not filed pursuant to the amendments herein proposed, and the carriers are expected to file agreements of anti-trust significance.

1. *Amendments to non-exempted agreements.* Many agreements have been filed with the Board prior to the effective date of Part 289, which if entered into subsequent to this date, would qualify for the exemption in Part 289 and need not be filed. Frequently, amendments are made to such agreements. These amendments are now required to be filed with the Board. The Board proposes to expand the exemption in Part 289 so as to exclude such amendments from the filing requirements of section 412(a) of the Act. It should be emphasized, however, that the filed agreement as well as the amendment to the agreement must meet all of the qualifying conditions in Part 289.

2. *Limitation on number of parties.* The present Part 289 limits the exemption to "any agreement between two such air carriers (certificated route air carriers) * * *." The underlying reason

for adopting such a limitation was that anti-trust considerations may be involved in multi-lateral agreements. However, the Board has further considered this matter and is of the view that the present prohibition in § 289.2(d) which excludes from the exemption any agreement which is violative of the anti-trust laws and a new rule excluding any resolution adopted by an air carrier trade association are adequate safeguards against possible antitrust problems arising in connection with multi-lateral agreements. In addition, any multi-lateral agreement containing any exclusionary features in restraint of trade will be considered by the Board as outside the scope of this regulation.

In view of the foregoing, the Board proposes to amend Part 289 by deleting the provision limiting the exemption to agreements between two carriers only.

3. *Agreements involving free and reduced rate transportation.* At present, air carriers are required to file all agreements relating to the issuance and interchange of tickets or passes for free or reduced-rate transportation. In addition, under § 223.6 of Part 223 (14 CFR Part 223), air carriers are required to file with the Board their internal rules and regulations relative to the granting of such transportation. The Board is of the view that the filing of a carrier's rules pursuant to Part 223 provides adequate information for Board enforcement purposes, and, therefore, there is no need for carriers to file agreements relating to free or reduced rate transportation. Accordingly, we propose to exempt air carriers from filing agreements between carriers involving the issuance or interchange of free or reduced rate transportation. In addition, we propose to extend the exemption to include not only certificated route carriers but also supplemental air carriers, since the latter are likewise subject to the filing requirements of Part 223.

4. *Pick-up and delivery agreements.* Pick-up and delivery agreements are agreements between the air carriers and local cartage companies which set forth, among other things, the services to be performed, accounting and payment procedures, liability and indemnity insurance, arbitration provisions, and a schedule or rates applicable to regular and special services. In addition, air carriers file as tariffs the rates charged to the public for the pick-up and delivery services. The Board has no substantial interest in the terms of the agreement between the air carrier and the cartage agent. The Board is primarily interested in the rates charged for pick-up and delivery service and the rules governing such service which, as stated above, are set forth in the tariffs of the various air carriers. These tariffs provide the Board with sufficient information to carry out its responsibilities under the Act. Accordingly, the Board proposes to exempt such agreements from the filing requirements of section 412(a) of the Act.

In view of the foregoing, the Board proposes to amend Part 289 (14 CFR Part 289) as follows:

1. Amend the definition of certificated route air carrier in § 289.1(a) by insert-

ing after "section 401" the additional designations "(d) (1) or (2)".

2. By adding to § 289.1 the following definitions:

(b) "Indirect air carrier" means any citizen of the United States¹ who engages indirectly in interstate, overseas or foreign air transportation² of property only, and who: (1) Does not engage in the operation of aircraft in air transportation, and (2) does not engage in air transportation pursuant to any Board order authorizing air express services under a contract with a direct air carrier.

(c) "Supplemental air carrier" means any air carrier which holds authority from the Board to engage in supplemental air transportation.

3. By amending § 289.2 to read:

§ 289.2 Exemption of air carriers.

Air carriers are hereby exempted from the filing requirements of section 412(a) of the Act with respect to any type of agreement listed in § 289.3 of this part, and amendments thereto, and from filing any future amendment to an agreement which was filed prior to the effective date of this Part where such filed agreement and the amendment qualify for an exemption under this Part; except that such exemption does not apply to an agreement or an amendment to an agreement that:

(a) Is between "affiliated" carriers within the meaning of that term as it is used in Part 261 of this subchapter; or

(b) Amends an existing agreement which itself is ineligible for exemption under this Part; or

(c) Is a resolution or similar action of the members of an association of air carriers; or

(d) Is violative of the "anti-trust laws" as that term is defined in section 1 of the Clayton Act, 15 U.S.C. 12.

4. By redesignating present § 289.3 to § 289.4.

5. By adding a new § 289.3 to read:

§ 289.3 Types of agreements which need not be filed.

(a) *Ground services and facilities:* Agreements between certificated route air carriers, or between any such air carrier(s) and any foreign air carrier(s), for the furnishing of ground facilities, ground equipment, ground service, or building or ground space; *Provided*, That the fees or charges therefor are known or anticipated not to exceed \$50,000 during any twelve-month period; and, *Provided further*, That in case the aggregate annual charge under an agreement believed to fall within this exemption at the time of execution thereof exceeds the dollar limitation in any twelve-month period, the carrier shall (1) report promptly the total amount paid, and (2) file the agreement with the Board under section 412(a) of the Act upon request by the Director of the Board's Bureau of Economic Regulation.

(b) *Free or reduced-rate transportation.* Agreements between certificated

route air carriers, or between supplemental air carriers, or between certificated route carriers and supplemental carriers, or between any such air carriers and foreign air carriers for the issuance or interchange of free or reduced-rate transportation: *Provided*, That such agreements do not provide for the issuance or interchange of passes for free or reduced-rate transportation other than as described in documents filed pursuant to § 223.6 of Part 223 of this subchapter.

(c) *Pick-up and delivery.* Agreements between certificated route air carriers or indirect air carriers on the one hand and surface motor carriers on the other hand for pick-up and delivery of property: *Provided*, That all of the points named in the agreement and the rates and charges to the public for such service are set forth in tariffs filed with the Board pursuant to Part 221 of this subchapter.

6. By amending the title of the Part to read: Part 289—Exempting air carriers from filing certain agreements.

[F.R. Doc. 61-10330; Filed, Oct. 30, 1961; 8:51 a.m.]

[14 CFR Part 301]

[Docket No. 13032]

RULES OF PRACTICE IN AIR SAFETY PROCEEDINGS

Supplemental Notice of Proposed Rule Making

OCTOBER 27, 1961.

The Board, in 26 F.R. 8642 and by circulation of a notice of proposed rule making dated September 12, 1961, gave notice that it had under consideration amendments to Parts 301 and 302 of the Procedural Regulations, 14 CFR Parts 301 and 302, relating to delegation to hearing examiners of the Board's function of making the agency decision in certain cases.

In its notice, the Board requested interested parties to submit such comments as they might desire not later than October 30, 1961. Requests have been received by the Board asking for an extension of time in which to file comments on the proposed amendments to Part 301.

The undersigned, acting under authority duly delegated to him by the Board, finds that good cause has been shown and that it will be in the public interest to grant an extension of time for the filing of comments with respect to the proposed amendments to Part 301. The time for filing comments on the proposed amendments to Part 302 is not being extended by this action.

Therefore, pursuant to the authority delegated under section 7.3C of Public Notice PN 15 and redelegated under section 7.6 thereof, the undersigned hereby extends the date for comments on PDR-8, with respect to the amendments to Part 301 of the Procedural Regulations proposed therein, until November 8, 1961. All relevant matter in communications received on or before November 8, 1961, will be considered by the Board before taking final action on the proposed

¹ As defined in section 101(13) of the Act.

² As defined in section 101(21) of the Act.

amendments to Part 301. Copies of such communications will be available for examination by interested persons in the Docket Section of the Board, Room 711, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., upon receipt thereof.

(Secs. 204(a) and 1001 of the Federal Aviation Act, 72 Stat. 743, 788; 49 U.S.C. 1324, 1481)

[SEAL] ROSS I. NEWMANN,
Associate General Counsel,
Rules and Legislation.

[F.R. Doc. 61-10411; Filed, Oct. 30, 1961;
8:53 a.m.]

FEDERAL AVIATION AGENCY

[14 CFR Part 602]

[Airspace Docket No. 61-WA-197]

JET ROUTES

Proposed Alteration

Pursuant to the authority delegated to me by the Administrator (14 CFR 409.13), notice is hereby given that the Federal Aviation Agency is considering an amendment to § 602.100 of the Regulations of the Administrator, the substance of which is stated below.

Jet Route No. 23 extends in part from the San Antonio, Texas, VORTAC via the Wichita Falls, Texas, VORTAC to the Oklahoma City, Okla., VORTAC. The Federal Aviation Agency has under consideration the alteration of this jet route by realigning it from the San Antonio VORTAC via the Mineral Wells, Texas, VORTAC to the Oklahoma City VORTAC. This would provide a more direct route between San Antonio and Oklahoma City and reduce the route mileage between these points.

If this action is taken, the segment of Jet Route No. 23 under consideration would extend from the San Antonio VORTAC via the Mineral Wells VORTAC to the Oklahoma City VORTAC.

Interested persons may submit such written data, views or arguments as they may desire. Communications should be submitted in triplicate to the Chief, Airspace Utilization Division, Federal Aviation Agency, Washington 25, D.C. All communications received within forty-five days after publication of this notice in the FEDERAL REGISTER will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Agency officials may be made by contacting the Chief, Airspace Utilization Division. Any data, views or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received.

The official Docket will be available for examination by interested persons at the Docket Section, Federal Aviation Agency, Room C-226, 1711 New York Avenue NW., Washington 25, D.C.

This amendment is proposed under section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348).

Issued in Washington, D.C., on October 24, 1961.

H. B. HELSTROM,
Acting Chief,
Airspace Utilization Division.

[F.R. Doc. 61-10301; Filed, Oct. 30, 1961;
8:45 a.m.]

INTERSTATE COMMERCE COMMISSION

[49 CFR Parts 72, 73, 74, 75, 77, 78]

[Docket No. 3666; Notice 53]

EXPLOSIVES AND OTHER DANGEROUS ARTICLES

Notice of Proposed Rule Making

OCTOBER 17, 1961.

In the matter of regulations for transportation of explosives and other dangerous articles.

The Commission is in receipt of applications for early amendment of the above-entitled regulations insofar as they apply to shippers in the preparation of articles for transportation, and to all carriers by rail and highway. The proposed amendments are set forth below and the reasons therefor are listed in the appendix below.

Applications for the proposed amendments have been the subject of exchanges and study by various interested

parties, in which substantial agreement has been reached.

Any party desiring to make representations in favor of or against the proposed amendments may do so through the submission of written data, views, or arguments. The original and five copies of such submission may be filed with the Commission on or before November 14, 1961. The proposed amendments are subject to change or changes that may be made as a result of such submissions.

Notice to the general public will be given by depositing a copy of this notice in the Office of the Secretary of the Commission for public inspection, and by filing a copy of the notice with the Director, Office of the Federal Register.

(62 Stat. 738, 74 Stat. 808; 18 U.S.C. 834)

By the Commission, Safety and Service Board No. 2—Explosives and Other Dangerous Articles Board.

[SEAL] HAROLD D. MCCOY,
Secretary.

PART 72—COMMODITY LIST OF EXPLOSIVES AND OTHER DANGEROUS ARTICLES CONTAINING THE SHIPPING NAME OR DESCRIPTION OF ALL ARTICLES SUBJECT TO PARTS 71-78 OF THIS CHAPTER

Amend § 72.5 Commodity List (25 F.R. 3098, Apr. 12, 1960) (15 F.R. 8266, 8268, 8269, Dec. 2, 1950) as follows:

§ 72.5 List of explosives and other dangerous articles.

(a) * * *

Article	Classed as—	Exemptions and packing (see sec.)	Label required if not exempt	Maximum quantity in 1 outside container by rail express
(Change)				
Dichlorodifluoromethane and difluoroethane mixture (constant boiling mixture).	Nonf. G.....	73.302, 73.308, 73.314, 73.315.	Green.....	300 pounds.
Hexafluoropropylene.....	Nonf. G.....	73.302, 73.308, 73.314, 73.315.	Green.....	300 pounds.
*Magnesium, metallic, powdered, pellets, turnings, or ribbon.	F.S.....	73.153, 73.220.....	Yellow.....	100 pounds.
(Add)				
*Aqua ammonia solution containing anhydrous ammonia.	Nonf. G.....	73.302, 73.306, 73.314, 73.315.	Green.....	300 pounds.
Methyl magnesium bromide in ethyl ether in concentrations not over 40 percent.	F.L.....	No exemption, 73.134.	Red.....	2 ounces.
Uranium, normal or depleted, in solid metal form (not borings, chips, or pieces).	Pois. D.....	73.392(f).....	Radioactive material, Group 1, Red.	See § 73.391(b).

PART 73—SHIPPERS

Subpart A—Preparation of Articles for Transportation by Carriers by Rail Freight, Rail Express, Highway, or Water

In § 73.23 amend paragraph (a) (15 F.R. 8277, Dec. 2, 1950) to read as follows:

§ 73.23 Closures for containers.

(a) Containers must be closed for shipment as prescribed in the specifications for the container unless otherwise authorized for the particular article being shipped and in addition must be

secured in a manner that will prevent leakage of contents under conditions of normal transportation. Gasketed closures must be fitted with gaskets of efficient material which will not be deteriorated by the contents of the container.

In § 73.31 amend paragraph (g) (9) Table 2 and add Footnote h thereto (21 F.R. 4563, June 26, 1956) to read as follows:

§ 73.31 Qualification, maintenance, and use of tank cars.

* * * * *
(g) * * *
(9) * * *

TABLE 2—RETEST PERIODS AND PRESSURES

Classification	Tank retest (years * b)	Safety valves (years c)	Tank test			Safety valve (psi)	Safety valve vapor tight (psi)
			Holding time minimum (seconds)	Hydrostatic displacement test (psi)	Air test for leaks (psi)		
(Change)							
ICC-107A****	b 5	2	30	(d)	None	(e)	(*)
ICC-110A500-W	5	2	10 minutes	500	None	375	300

* ICC-107A**** tanks used exclusively in helium gas service shall be exempt from the quinquennial hydrostatic retest requirement until December 31, 1971. This exemption shall be applicable to tank cars presently operated in helium service by the United States Bureau of Mines and to additional cars that are placed in helium service by the Bureau of Mines.

Subpart B—Explosives; Definitions and Preparation

In § 73.51 amend paragraph (q) (26 F.R. 9399, Oct. 6, 1961) to read as follows:

§ 73.51 Forbidden explosives.

(q) New explosives except samples for laboratory examination (see § 73.86) and military explosives approved by the Chief of Ordnance, Department of the Army; Chief, Bureau of Naval Weapons, Department of the Navy; or Commander, Air Force Systems Command and Commander, Air Force Logistics Command, Department of the Air Force. All other new explosives must be approved for transportation by the Bureau of Explosives.

In § 73.63 add paragraph (a) (3) (15 F.R. 8288, Dec. 2, 1950) to read as follows:

§ 73.63 High explosive with liquid explosive ingredient.

(a) * * *

(3) Spec. 23F or 23H (§ 78.214 or 78.219 of this chapter). Fiberboard boxes having one inside 26-gauge metal container, measuring not over 8 inches in diameter and 31 inches long, containing high explosives (ammonium dynamite core) surrounded by nitrocarbonate. Authorized gross weight not to exceed 65 pounds.

In § 73.79 amend paragraph (b) (21 F.R. 3009, May 5, 1956) to read as follows:

§ 73.79 Jet thrust units (jato), explosive, class A or igniters jet thrust (jato), explosive, class A.

(b) Jet thrust units (jato), class A, or igniters, jet thrust (jato), class A, packed in any other manner must be approved by the Bureau of Explosives.

In § 73.92 amend paragraph (b) (21 F.R. 3009, May 5, 1956) to read as follows:

§ 73.92 Jet thrust units (jato), class B, igniters, jet thrust (jato), class B, or starter cartridges, jet engine, class B.

(b) Jet thrust units (jato), class B, or igniters, jet thrust (jato), class B, packed in any other manner must be approved by the Bureau of Explosives.

In § 73.93 amend paragraph (a) (7) (17 F.R. 1560, Feb. 20, 1952) to read as follows:

§ 73.93 Propellant explosives (solid) for cannon, small arms, rockets, guided missiles, or other devices, and propellant explosives (liquid).

(a) * * *

(7) Spec. 14, 15A, 15B, or 15C (§§ 78.165, 78.168, 78.169, or § 78.170 of this chapter) wooden boxes, or spec. 12B, 23F, or 23H (§§ 78.205, 78.214, or § 78.219 of this chapter) fiberboard boxes, with inside containers which must be spec. 13 (§ 78.140 of this chapter) metal kegs. Spec. 12B (§ 78.205 of this chapter) fiberboard boxes shall contain not more than 6 metal kegs not over 5 pounds net weight each in one outside box. Gross weight not to exceed 200 pounds in wooden boxes or 65 pounds in fiberboard boxes.

In § 73.100 amend paragraphs (b) (2) and (1) (22 F.R. 3925, June 5, 1957) (15 F.R. 8295, Dec. 2, 1950) to read as follows:

§ 73.100 Definition of class C explosives.

(b) * * *

(2) Ammunition of caliber less than .75 inch (19.05 millimeters) designed to be fired from machine guns.

(i) Delay electric igniters consist of small metal, fiberboard, or pasteboard tubes containing a wire bridge in contact with a small quantity of ignition compound. The ignition compound is in contact with or in close proximity to a short piece of safety fuse.

Subpart C—Flammable Liquids, Definition and Preparation

In § 73.118 add paragraph (c) (38) (15 F.R. 8298, Dec. 2, 1950) to read as follows:

§ 73.118 Exemptions for flammable liquids.

(c) * * *

(38) Methyl magnesium bromide in ethyl ether in concentrations not over 40 percent.

In § 73.119 amend paragraph (b) (4) (26 F.R. 4994, June 6, 1961) to read as follows:

§ 73.119 Flammable liquids not specifically provided for.

(b) * * *

(4) Spec. 12B (§ 78.205 of this chapter). Fiberboard boxes with inside containers of glass, earthenware, or metal, or polyethylene bottles, not over 1-gallon each. Packages containing inside glass

or earthenware containers must not contain more than 4 such inside containers if their capacity is greater than 5 pints each. Polyethylene bottles are authorized only for materials that will not react with or cause decomposition of the plastic.

[No change in Note 1.]

In § 73.128 amend paragraph (a) (2) (20 F.R. 4414, June 23, 1955) to read as follows:

§ 73.128 Paints and related materials.

(a) * * *

(2) Spec. 37A or 37B (§ 78.131 or 78.132 of this chapter). Metal drums (single-trip) not over 5 gallons capacity with welded side seams, irrespective of flash point or viscosity. Spec. 37A (§ 78.131 of this chapter) metal drums constructed with 26-gauge body sheets, 24-gauge removable heads, and 26-gauge bottom heads are authorized for not over 80 pounds gross weight. Because of the present emergency and until further order of the Commission, spec. 37A or 37B (§ 78.131 or 78.132 of this chapter) metal drums of 8½ gallons capacity with welded side seams and made of 24-gauge metal are authorized provided flash point of material shipped is above 20°F.

In § 73.134 amend the heading and introductory text of paragraph (a); amend paragraphs (a) (5), (b), and add paragraph (c) (25 F.R. 6625, July 14, 1960) (25 F.R. 10392, Oct. 29, 1960) (15 F.R. 8302, Dec. 2, 1950) to read as follows:

§ 73.134 Aluminum triethyl, aluminum trimethyl, pyroforic fuel, pyroforic solutions, zinc ethyl, triisobutyl aluminum, ethyl aluminum sesquichloride, diethyl aluminum chloride, ethyl aluminum dichloride, methyl aluminum sesquichloride, methyl aluminum sesquibromide, methylmagnesium bromide in ethyl ether in concentrations not over 40 percent, and mixtures or solutions thereof.

(a) Aluminum triethyl, aluminum trimethyl, pyroforic fuel, pyroforic solutions, zinc ethyl, triisobutyl aluminum, ethyl aluminum sesquichloride, diethyl aluminum chloride, ethyl aluminum dichloride, methyl aluminum sesquichloride, methyl aluminum sesquibromide, methylmagnesium bromide, in ethyl ether in concentrations not over 40 percent, and mixtures or solutions thereof must be shipped in devices or apparatus of a type approved by the Bureau of Explosives or in specification containers as follows:

(5) Spec. 17C or 37A (§ 78.115 or 78.131 of this chapter). Metal drums (single-trip) with inside metal cans not

over 1-gallon capacity each, constructed of not less than 28-gauge electro-coated tin plate. Inside containers shall have no opening exceeding 1-inch diameter and shall be closed with air-tight soldered screw-cap closures. Inside containers must be surrounded on all sides with incombustible cushioning material. Spec. 17C (§ 78.115 of this chapter) 30-gallon capacity drums shall contain not more than 20 gallons of pyroforic solution per drum and 55-gallon capacity drums shall contain not more than 35 gallons of pyroforic solution per drum; each layer of inside containers must be separated by a tin plate separator in addition to cushioning material. Spec. 37A (§ 78.131 of this chapter) drums shall not exceed 5-gallons capacity each. Authorized only for pyroforic fuel mixed with solvent.

(b) Aluminum triethyl, aluminum trimethyl and mixtures or solutions thereof, pyroforic fuel, pyroforic solutions, zinc ethyl, triisobutyl aluminum, ethyl aluminum sesquichloride, diethyl aluminum chloride, ethyl aluminum dichloride, methyl aluminum sesquichloride, methyl aluminum sesquibromide, methyl magnesium bromide in ethyl ether in concentrations not over 40 percent, and mixtures or solutions thereof, when offered for transportation by rail express must be packed in glass ampules not over 2 ounces capacity each, securely cushioned with absorbent material in sufficient quantity to completely absorb contents in event of breakage, within an inside metal container, spec. 2R (§ 78.34 of this chapter) enclosed in a strong wooden box.

(c) Methyl magnesium bromide in ethyl ether in concentrations not over 40 percent must be packed in containers as prescribed by paragraphs (a) or (b), or in specification containers as follows:

(1) Spec. 12B (§ 78.205 of this chapter). Fiberboard boxes with inside glass bottles not over 1-quart capacity each. Authorized gross weight not over 65 pounds.

(2) Spec. 17C (§ 78.115 of this chapter). Metal drums (single-trip) with openings not exceeding 2.3 inches in diameter.

In § 73.148 paragraph (a) (4) add Note 1 (25 F.R. 3100, Apr. 12, 1960) to read as follows:

§ 73.148 Monoethylamine.

(a) * * *

(4) * * *

NOTE 1: Tanks complying with ICC-106A or ICC-110A specifications may be transported on trucks or semi-trailers only, when securely chocked or clamped thereon to prevent shifting and provided adequate facilities are present for handling tanks where transfer in transit is necessary. See § 74.560 of this chapter for rail freight-motor vehicle shipments.

Subpart D—Flammable Solids and Oxidizing Materials; Definition and Preparation

In § 73.190 amend paragraph (c) (3) (26 F.R. 4995, June 6, 1961) to read as follows:

§ 73.190 Phosphorus, white or yellow.

(c) * * *

(3) Spec. 29 (§ 78.226 of this chapter). Mailing tube having a watertight rigid polyethylene container in which is placed a quartz tube containing not more than 100 grams of phosphorus sealed under nitrogen, with the remaining space in the polyethylene container filled with water. The polyethylene container shall be cushioned within the mailing tube with incombustible cushioning material.

In § 73.220 amend the heading; re-designate paragraphs (b) and (c) as paragraphs (a) (1) and (2) respectively; add a new paragraph (b) (25 F.R. 6626, July 14, 1960) (17 F.R. 7281, Aug. 9, 1952) to read as follows:

§ 73.220 Magnesium or zirconium scrap consisting of borings, clippings, shavings, sheets, or turnings, and magnesium metallic (other than scrap), powdered, pellets, turnings, or ribbon.

(a) * * *

(1) Magnesium or zirconium scrap consisting of clippings or scrap sheets may be shipped in bulk in carload or truckload quantities. Cars must be tight box cars or tightly closed steel covered gondola cars and trucks or trailers must have closed or completely covered bodies.

(2) Magnesium or zirconium scrap consisting of clippings or scrap sheets in closed metal drums, wooden barrels, or wooden boxes is exempt from specification packaging, marking, and labeling requirements. Shipments for transportation by highway carriers are exempt also from Part 77 of this chapter, except § 77.817, and Part 197 of this chapter.

(b) Magnesium metallic (other than scrap), powdered, pellets, turnings, or ribbon must be packed in containers as prescribed in § 73.154.

(1) Magnesium metallic (other than scrap), pellets, turnings, or ribbon in closed metal drums, metal pails, fiber drums, wooden boxes with inside containers, fiberboard boxes with inside glass bottles not over 1 pound capacity each, with not more than 25 pounds net weight of product in each outside fiberboard box are, unless otherwise provided, exempt from specification packaging, marking,

and labeling requirements, except that marking name of contents on outside container is required for shipments via carrier by water. Shipments for transportation by highway carriers are exempt also from Part 77 of this chapter, except § 77.817, and Part 197 of this chapter.

Subpart E—Acids and Other Corrosive Liquids; Definition and Preparation

In § 73.245 amend paragraph (a) (5) (15 F.R. 8313, Dec. 2, 1950) to read as follows:

§ 73.245 Acids or other corrosive liquids not specifically provided for.

(a) * * *

(5) Spec. 10A (§ 78.155 of this chapter). Wooden barrels or kegs; these containers must be lined with asphalt, paraffin, or wax impervious to the lading.

In § 73.262 add paragraph (b) (2) (15 F.R. 8316, Dec. 2, 1950) to read as follows:

§ 73.262 Hydrobromic acid.

(b) * * *

(2) Spec. 6J (§ 78.100 of this chapter). Steel drum with inside spec. 2S (§ 78.35 of this chapter) polyethylene container.

In § 73.271 add paragraph (a) (16) (15 F.R. 8321, Dec. 2, 1950) to read as follows:

§ 73.271 Phosphorus oxychloride, phosphorus trichloride, and thiophosphoryl chloride.

(a) * * *

(16) Spec. 17C (§ 78.115 of this chapter). Metal drums (single-trip) with no opening exceeding 2.3 inches in diameter. Drums must be lined with a material impervious to the lading. Authorized for phosphorus trichloride only.

Subpart F—Compressed Gases; Definition and Preparation

In § 73.314 amend paragraph (a) Table (25 F.R. 3102, Apr. 12, 1960) (22 F.R. 2227, Apr. 4, 1957) to read as follows:

§ 73.314 Compressed gases in tank cars.

(a) * * *

Kind of gas	Maximum permitted filling density, Note 1	Required type of tank car, Note 2
(Change)	Percent	
Hexafluoropropylene.....	110.....	ICC-106A500, 106A500-X, 110A500-W, Note 12.
(Add)		
Aqua ammonia solution containing anhydrous ammonia.	Note 6.....	ICC-105A100-W, 105A200-W, 105A300-W, 105A100A L-W, 105A200A L-W, 105A300A L-W, 109A100A L-W, 109A200A L-W, 109A300A L-W, 111A100-W-4, Note 5.

In § 73.315 amend paragraph (a) (1) Table and Note 3, and add Note 12 thereto; amend paragraph (h) Table and add Note 1 thereto; amend paragraph (i) (2) Table (23 F.R. 2327, 2328, Apr. 10, 1958) (21 F.R. 3012, May 5, 1956) to read as follows:

§ 73.315 Compressed gases in cargo tanks and portable tank containers.

(a) * * *

(1) * * *

Kind of gas	Maximum permitted filling density		Specification container required	
	Percent by weight (see Note 1)	Percent by volume (see par. (f) of this section)	Type (see Note 2)	Minimum design pressure (psig)
(Add)				
Aqua ammonia solution containing anhydrous ammonia.	See par. (c) of this section.	See Note 7.	MC 330; see Note 12.	100; see subpar. (c)(1) of this section.
Dichlorodifluoromethane and difluoroethane mixture (constant boiling mixture) (see Note 9).	See par. (c) of this section.do.....	MC 330	250.
Hexafluoropropylene.	110do.....do.....	250.

NOTE 3: If cargo tanks and portable tank containers for carbon dioxide and nitrous oxide are designed to comply with the requirements for "Low Temperature Operation of the A.S.M.E. Boiler and Pressure Vessel Code, Section VIII, Unfired Pressure Vessels," the design pressure may be reduced to 100 psig or the controlled pressure, whichever is greater.

NOTE 12: No aluminum, copper, silver, zinc, or alloy of any of these metals shall be used in the cargo tank construction where it can come into contact with the lading.

(h) * * *

Kind of gas	Permitted gauging device
(Change)	
Liquefied petroleum gases.	Rotary tube; adjustable slip tube; fixed length dip tube. (See Note 1.)
(Add)	
Aqua ammonia solution containing anhydrous ammonia.	Rotary tube; adjustable slip tube; fixed length dip tube.
Dichlorodifluoromethane and difluoroethane mixture (constant boiling mixture).	None.
Hexafluoropropylene.	None.

NOTE 1: Any gauging device used to determine the maximum allowable filling limit of the cargo tank of a trailer or semitrailer constructed after and used in liquefied petroleum gas service, shall be located as near the mid-point (front-to-rear) of the cargo tank as practical. If a gauging device, such as a rotary gauge or a slip tube gauge, is used for the above purpose, a fixed tube gauge set in the range of 85 percent-90 percent of the water capacity of the tank shall be provided, in addition, as a means of checking the accuracy of the variable gauge. The capacity indicated by this fixed gauge shall be marked on or adjacent to this gauge which shall be secured to prevent tampering with the setting.

(i) * * *
(2) * * *

Kind of gas	Minimum start-to-discharge pressure (psig)
(Add)	
Aqua ammonia solution containing anhydrous ammonia.	100
Dichlorodifluoromethane and difluoroethane mixture (constant boiling mixture).	250
Hexafluoropropylene.	250

Subpart G—Poisonous Articles; Definition and Preparation

In § 73.349 add paragraph (a)(3) (15 F.R. 8335, Dec. 2, 1950) to read as follows:

§ 73.349 Carbolic acid (phenol) liquid.

(a) * * *

(3) Spec. 12A (§ 78.210 of this chapter). Fiberboard boxes with inside glass bottles not over 5-pints capacity each. Not more than 6 inside glass bottles of 5-pints capacity each shall be packed in one outside container. Shipper must have established that the completed package meets test requirements prescribed by § 78.210-10 of this chapter.

In § 73.357 amend paragraph (b)(1) and add Note 1 thereto (21 F.R. 7603, Oct. 4, 1956) to read as follows:

§ 73.357 Chlorpicrin and chlorpicrin mixtures containing no compressed gas or poisonous liquid, class A.

(b) * * *

(1) Spec. 3A, 3AA, 3B, 3C, 3D, 3E, 4A, 4B, 4BA, or 4C (§ 78.36, 78.37, 78.38, 78.40, 78.41, 78.42, 78.49, 78.50, 78.51, or 78.52 of this chapter). Metal cylinders of not over 275 pounds water capacity (nominal). Valves or other closing devices must be protected, to prevent injury in transit, by screw-on metal caps or by packing the cylinders in strong boxes or crates. Cylinders closed by means of solid plugs may have the plugs protected by metal collars. Cylinders having a wall thickness of less than 0.08 inch must be packed in boxes or crates (see § 73.25).

NOTE 1: Because of the present emergency and until further order of the Commission, cylinders not exceeding 458 pounds water capacity are authorized for mixtures containing not over 15 percent by volume of chlorpicrin.

In § 73.359 add paragraph (a)(12) (17 F.R. 4295, May 10, 1952) to read as follows:

§ 73.359 Hexaethyl tetraphosphate mixtures, methyl parathion mixtures, organic phosphate compound mixtures, n.o.s., parathion mixtures, tetraethyl dithio pyrophosphate mixtures, and tetraethyl pyrophosphate mixtures, liquid.

(a) * * *

(12) Spec. 12A (§ 78.210 of this chapter). Fiberboard boxes with inside securely closed metal containers not over 1-gallon capacity each. Fiberboard

boxes shall be constructed of not less than 500-pound test (Mullen or Cady) double-wall corrugated fiberboard. Not more than six 1-gallon metal containers shall be packed in one outside container; authorized for organic phosphate compound mixtures, liquid, n.o.s., only. Authorized gross weight not over 65 pounds.

In § 73.377 add paragraph (g)(2) (16 F.R. 11780, Nov. 21, 1951) to read as follows:

§ 73.377 Hexaethyl tetraphosphate mixtures, methyl parathion mixtures, organic phosphate compound mixtures, n.o.s., parathion mixtures, tetraethyl dithio pyrophosphate mixtures, and tetraethyl pyrophosphate mixtures, dry.

(g) * * *

(2) Spec. 12B (§ 78.205 of this chapter). Fiberboard boxes constructed of at least 275-pound test double-faced fiberboard and provided with a perimeter liner and top and bottom pad of at least 275-pound test fiberboard. Product must be contained within a tightly closed polyethylene or other equally efficient plastic bag constructed of material having minimum thickness of 0.003 inch. Not more than 50 pounds net weight of product may be packed in one outside box.

In § 73.392 add paragraph (f) (15 F.R. 8339, Dec. 2, 1950) to read as follows:

§ 73.392 Exemptions for radioactive materials.

(f) Uranium, normal or depleted, in solid form (not borings, chips, or pieces) must be packed in strong, tight, wooden or plywood boxes. Boxes weighing more than 500 pounds must be mounted on skids and as such are exempt from specification packaging and marking except for conformance with § 73.393 (c) and (d). Boxes must be labeled as described in § 73.414(d). Other exemptions from loading, storage, and placarding are described in Parts 74, 75, and 77 of this chapter.

In § 73.394 amend paragraph (c) (26 F.R. 1016, Feb. 2, 1961) to read as follows:

§ 73.394 Radioactive materials labels.

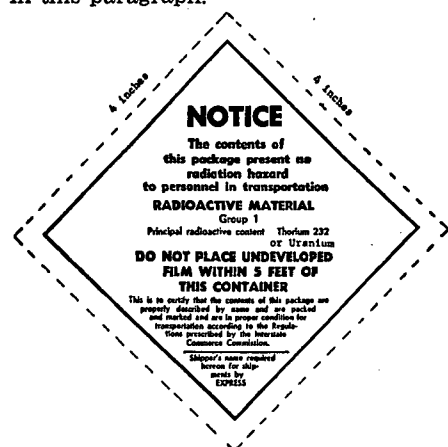
(c) Each bundle, box, barrel, or crate of magnesium-thorium alloys in formed shapes or uranium, normal or depleted, in solid metal form must be labeled with a label as described in § 73.414(d) unless exempt by § 73.392 (a) and (b).

In § 73.414 amend paragraph (d) including label (26 F.R. 1016, Feb. 2, 1961) to read as follows:

§ 73.414 Radioactive materials labels.

(d) Label for radioactive material, such as magnesium-thorium alloys in formed shapes or uranium, normal or depleted, in solid metal form (see § 73.392 (e) or (f)), must be of diamond shape, white in color, and with each side 4 inches long. Printing must be in red letters inside of a red-line border meas-

uring 3½ inches on each side, as shown in this paragraph.



PART 74—CARRIERS BY RAIL FREIGHT

Subpart A—Loading, Unloading, Placarding and Handling Cars; Loading Packages Into Cars

In § 74.532 add Note 1 to paragraph (b) (1); amend paragraphs (i), (j) (2), and (j) (2) (i) (15 F.R. 8347, Dec. 2, 1950) (25 F.R. 6627, July 14, 1960) (26 F.R. 1017, Feb. 2, 1961) to read as follows:

§ 74.532 Loading other dangerous articles.

(b) * * *

(1) * * *

NOTE 1: This prohibition does not apply, and heating or refrigeration apparatus may be operated on motor vehicles loaded with flammable liquids and flammable gases, when the lading space is equipped with no electrical apparatus other than of non-sparking or explosion-proof types, no combustion apparatus in the lading space, and no connection for return of air from the lading space to any combustion apparatus. The heating heating system must be such that no part of the lading is heated over 130° F. and conform to § 193.77 of this chapter. (See § 74.533(b).)

(i) Compressed gases in cylinders: Cylinders containing compressed gases shall be securely lashed in an upright position so as to prevent their overturning; or loaded into racks securely attached to the car; or packed in boxes or crates of such dimensions as to prevent their overturning; or loaded in a horizontal position. Spec. ICC-4L cylinders must be loaded in an upright position and be securely braced.

(j) * * *

(2) The amount of radioactive materials, other than radioactive ores, residues, or similar materials, loaded in a freight car, shall be limited so that the quantity does not exceed 40 units as determined by totaling the number of units shown on the individual labels on the packages. (The requirements of this paragraph do not apply to bundles, boxes, barrels, or crates of magnesium-thorium alloys or uranium, depleted or normal,

described by § 73.392 (e) and (f) of this chapter.)

[No change in Note 1.]

(i) Containers of radioactive material weighing 5,000 pounds or more or strong wooden boxes with inside containers of solid radioactive material, securely braced and cushioned, and concrete-filled metal drums or concrete vaults weighing 700 pounds or more may be loaded in gondola cars (drop bottom cars not authorized); containers of radioactive material weighing 15,000 pounds or more may be loaded on flat cars. Containers must be so blocked and braced that they cannot change position during transit.

Subpart E—Handling by Carriers by Rail Freight

In § 74.584 amend paragraph (a) Table Footnote 1 (26 F.R. 1017, Feb. 2, 1961) to read as follows:

§ 74.584 Waybills, switching orders, or other billing.

(a) * * *

These requirements do not apply to billing prepared for shipments of magnesium-thorium alloys or uranium, depleted or normal, described in § 73.392 (e) and (f) of this chapter and bearing red label as described in § 73.414(d) of this chapter.

In § 74.586 amend paragraph (h) (4) Note 1 (26 F.R. 1017, Feb. 2, 1961) to read as follows:

§ 74.586 Handling explosives and other dangerous articles.

(h) * * *

(4) * * *

NOTE 1: The requirements of this paragraph shall not apply to magnesium-thorium alloy materials or uranium, depleted or normal, described in § 73.392 (e) and (f) of this chapter. The location of bundles, boxes, barrels, or crates of such material from packages of undeveloped film must be as stated on the label (see § 73.414(d) of this chapter).

PART 75—CARRIERS BY RAIL EXPRESS

In § 75.655 amend paragraph (j) (7) Note 1 (26 F.R. 1017, Feb. 2, 1961) to read as follows:

§ 75.655 Protection of packages.

(j) * * *

(7) * * *

NOTE 1: Except for subparagraph (7), the requirements of this paragraph shall not apply to magnesium-thorium alloy materials or uranium, depleted or normal, described in § 73.392 (e) and (f) of this chapter. The location of bundles, boxes, barrels, or crates of such material from packages of undeveloped film must be as stated on the label (see § 73.414(d) of this chapter).

PART 77—SHIPMENTS MADE BY WAY OF COMMON, CONTRACT, OR PRIVATE CARRIERS BY PUBLIC HIGHWAY

Subpart B—Loading and Unloading

In § 77.840 amend paragraphs (a) (1) and (c) (25 F.R. 6627, 6628, July 14, 1960) to read as follows:

§ 77.840 Compressed gases.

(a) * * *

(1) *Cylinders.* Cylinders containing compressed gases shall be securely lashed in an upright position so as to prevent their overturning; or loaded into racks securely attached to the motor vehicle; or packed in boxes or crates of such dimensions as to prevent their overturning; or loaded in a horizontal position. Spec. ICC-4L cylinders must be loaded in an upright position and be securely braced.

(c) Tanks complying with ICC-106A or ICC-110A (§ 78.275, 78.276, 78.293, or 78.295 of this chapter) specifications used for the transportation of compressed gases and flammable liquids as authorized in §§ 73.314(a), 73.134(a) (2) and 73.148(a) (4) of this chapter may be transported on trucks or semi-trailers only, when securely chocked or clamped thereon to prevent shifting, and provided adequate facilities are present for handling tanks where transfer in transit is necessary. See § 74.560(b) (1) of this chapter.

In § 77.841 amend paragraph (d) (5) Note 1 (26 F.R. 1018, Feb. 2, 1961) to read as follows:

§ 77.841 Poisons.

(d) * * *

(5) * * *

NOTE 1: The requirements of this paragraph shall not apply to magnesium-thorium alloy materials or uranium, normal or depleted, described in § 73.392 (e) and (f) of this chapter. The location of bundles, boxes, barrels, or crates of such material from packages of undeveloped film must be as stated on the label (see § 73.414(d) of this chapter).

PART 78—SHIPPING CONTAINER SPECIFICATIONS

Subpart B—Specifications for Inside Containers and Linings

In § 78.21-3 amend paragraph (a) (25 F.R. 10397, Oct. 29, 1960) to read as follows:

§ 78.21 Specification 2T; polyethylene container.

§ 78.21-3 Material.

(a) Containers shall be made of polyethylene and shall have the following properties (see Note 1):

Melt index-----	2.6 maximum.
Density-----	0.910-0.925.
Tensile strength----	1500 pounds per square inch minimum.
Percent elongation--	400 percent minimum.

NOTE 1: Properties to be obtained by a test method approved by Bureau of Explosives. Other materials may be added which shall not affect the properties specified in paragraph (a) of this section.

(1) Container must have a minimum weight and wall thickness in accordance with the following table:

Marked capacity not over (gallons)	Minimum wall thickness (inch)	Minimum weight of containers (pounds)
5.....	0.0625	3
6 1/4.....	.0625	4
13.....	.0625	8

Subpart C—Specifications for Cylinders

In § 78.44-12 amend paragraph (b) Footnote 1 (24 F.R. 10113, Dec. 15, 1959) to read as follows:

§ 78.44 Specification 3HT; inside containers, seamless steel cylinders for aircraft use made of definitely prescribed steel.

§ 78.44-12 Openings in cylinders and connections (valves, fuse plugs, etc.) for those openings.

(b) * * *

¹ Available for a nominal charge from the American Standards Association, 70 East 45th Street, New York 17, New York and the Compressed Gas Association, Inc., 500 Fifth Avenue, New York 36, New York.

In § 78.51-17 amend paragraph (c) Footnote 2 (25 F.R. 10500, Oct. 29, 1960) to read as follows:

§ 78.51 Specification 4BA; welded or brazed steel cylinders made of definitely prescribed steels.

§ 78.51-17 Tests.

(c) * * *

² Available from the Compressed Gas Association, Inc., 500 Fifth Avenue, New York 36, New York.

In § 78.54-8 amend paragraph (a) (2) Footnote 1; in 78.54-18 amend paragraph (a) Footnote 1 (25 F.R. 10400, Oct. 29, 1960) to read as follows:

§ 78.54 Specification 4B240-FLW; welded or welded and brazed cylinders with fusion-welded longitudinal seam.

§ 78.54-8 Manufacture.

(a) * * *
(2) * * *

¹ Available from the Compressed Gas Association, Inc., 500 Fifth Avenue, New York 36, New York.

§ 78.54-18 Radiographic examination.

(a) * * *

¹ Available from the Compressed Gas Association, Inc., 500 Fifth Avenue, New York 36, New York.

In § 78.56-2 amend paragraph (a); in § 78.56-17 amend paragraph (b) Footnote 2 (19 F.R. 1281, Mar. 6, 1954) (25 F.R. 10401, Oct. 29, 1960) to read as follows:

§ 78.56 Specification 4AA480; welded steel cylinders made of definitely prescribed steels.

§ 78.56-2 Type, size, and service pressure.

(a) Must be welded type, having not over 1,000 pounds water capacity

No. 210—6

(nominal). Closures welded by spinning process not permitted.

* * * * *

§ 78.56-17 Tests of welds.

* * * * *

(b) * * *

² Available from the Compressed Gas Association, Inc., 500 Fifth Avenue, New York 36, New York.

In § 78.57-9 amend paragraph (c) Footnote 3 (21 F.R. 7605, Oct. 4, 1956) to read as follows:

§ 78.57 Specification 4L; welded cylinders insulated.

§ 78.57-9 Welding.

* * * * *

(c) * * *

² Available from the Compressed Gas Association, Inc., 500 Fifth Avenue, New York 36, New York.

In § 78.58-8 amend paragraph (a) Footnote 2 (21 F.R. 7608, Oct. 4, 1956) to read as follows:

§ 78.58 Specification 4DA; inside containers, welded steel for aircraft use.

§ 78.58-8 Manufacture.

(a) * * *

² Available from the Compressed Gas Association, Inc., 500 Fifth Avenue, New York 36, New York.

In § 78.60-18 amend paragraph (a) (1) Footnote 2 (25 F.R. 10402, Oct. 29, 1960) to read as follows:

§ 78.60 Specification 8AL; steel cylinders with approved porous filling for acetylene.

§ 78.60-18 Weld tests.

(a) * * *
(1) * * *

² Available from the Compressed Gas Association, Inc., 500 Fifth Avenue, New York 36, New York.

In § 78.68-17 amend paragraph (b) Footnote 1 (25 F.R. 10402, Oct. 29, 1960) to read as follows:

§ 78.68 Specification 4E; welded aluminum cylinders.

§ 78.68-17 Weld tests.

* * * * *

(b) * * *

¹ Available from the Compressed Gas Association, Inc., 500 Fifth Avenue, New York 36, New York.

In Appendix A, amend section 22, paragraph (b) (4) (b) Footnote 1 of Specification 4B Alloy Steel Cylinders now reading, "Available from the Compressed Gas Association, Inc., 11 West 42d Street, New York 36, N.Y." to read "Available from the Compressed Gas Association, Inc., 500 Fifth Avenue, New York 36, New York." (25 F.R. 10402, Oct. 29, 1960)

Subpart D—Specifications for Metal Barrels, Drums, Kegs, Cases, Trunks, and Boxes

In § 78.107-9 amend paragraph (a) (3) (16 F.R. 5329, June 6, 1951) to read as follows:

§ 78.107 Specification 42B; aluminum drums.

§ 78.107-9 Marking.

(a) * * *

(3) Gauge of metal, Brown and Sharpe or equivalent decimal thickness in inches, at start of fabrication; rated capacity in gallons; year of manufacture (for example, 7-30-50 or 0.1442-30-50).

In § 78.108-9 amend paragraph (a) (3) (16 F.R. 5329, June 6, 1951) to read as follows:

§ 78.108 Specification 42C; aluminum barrels or drums.

§ 78.108-9 Marking.

(a) * * *

(3) Gauge of metal, Brown and Sharpe or equivalent decimal thickness in inches, at start of fabrication; rated capacity in gallons; year of manufacture (for example, 7-30-50 or 0.1442-30-50).

In § 78.109-9 amend paragraph (a) (3) (16 F.R. 5329, June 6, 1951) to read as follows:

§ 78.109 Specification 42D; aluminum drums.

§ 78.109-9 Marking.

(a) * * *

(3) Gauge of metal, Brown and Sharpe or equivalent decimal thickness in inches, at start of fabrication; rated capacity in gallons; year of manufacture (for example, 7-30-50 or 0.1442-30-50).

In § 78.110-8 amend paragraph (a) (3) (17 F.R. 7286, Aug. 9, 1952) to read as follows:

§ 78.110 Specification 42F; aluminum barrels or drums.

§ 78.110-8 Marking.

(a) * * *

(3) Gauge of metal, Brown and Sharpe or equivalent decimal thickness in inches in thinnest part; rated capacity in gallons; and year of manufacture (for example, 11-50-52 or 0.0907-50-52). When gauge of metal in body differs from that in head, both must be indicated with slanting line between and with gauge of body indicated first (for example, 11/10-50-52 or 0.0907/0.1018-50-52 for body 11-gauge and head 10-gauge).

In § 78.111-8 amend paragraph (a) (3) (24 F.R. 10116, Dec. 15, 1959) to read as follows:

§ 78.111 Specification 42G; aluminum drums.

§ 78.111-8 Marking.

(a) * * *

(3) Gauge of metal, Brown and Sharpe or equivalent decimal thickness in inches, at start of fabrication; rated capacity in gallons; year of manufacture (for example, 7-30-50 or 0.1442-30-50).

In § 78.133-5 amend the heading and paragraph (a); amend paragraph (a) Table first column now reading, "Marked capacity not over (gallons)" to read "Drums for plastic liner of rated capacity not over (gallons)"; amend Footnote 1 to Table (23 F.R. 2330, Apr. 10, 1958)

(26 F.R. 9404, Oct. 6, 1961) to read as follows:

§ 78.133 Specification 37P; steel drums with polyethylene liner.

§ 78.133-5 Parts and dimensions for steel drums.

(a) Parts and dimensions for steel drums shall be as follows:

* * * * *

¹ Drum interior shall be free of projections, burrs, or any edges that will cause damage to liners, and shall be free of lubricants, oil, or other foreign matter. Drum shall provide a snug fit for the plastic liner.

In § 78.136-9 amend paragraph (a) (3) (16 F.R. 5329, June 6, 1951) to read as follows:

§ 78.136 Specification 42E; aluminum drums.

§ 78.136-9 Marking.

(a) * * *

(3) Gauge of metal, Brown and Sharpe or equivalent decimal thickness in inches, at start of fabrication; rated capacity in gallons; year of manufacture (for example, 7-30-50 or 0.1442-30-50).

In § 78.140-3 amend paragraph (a) Table in its entirety and add Footnote 2 (15 F.R. 8455, Dec. 2, 1950) to read as follows:

§ 78.140 Specification 13; metal kegs.

§ 78.140-3 Parts and dimensions.

(a) Parts and dimensions as follows:

	Gross weight of kegs and contents			
	Not over 15 pounds	Not over 30 pounds ¹	Over 30 pounds but not over 75 pounds	Over 75 pounds but not over 150 pounds
Thickness of material:				
Body.....	30 gauge.....	28 gauge.....	24 gauge.....	24 gauge.....
Head.....	do.....	do.....	28 gauge.....	28 gauge.....
Width of lap for side seam ²	$\frac{3}{4}$ inch.....	$\frac{7}{8}$ inch.....	$\frac{7}{8}$ inch.....	$\frac{1}{2}$ inch.....
Number of corrugations in each end of body.....	3.....	3.....	5.....	7.....
Minimum depths of corrugations.....	$\frac{1}{8}$ inch.....	$\frac{3}{32}$ inch.....	$\frac{3}{32}$ inch.....	$\frac{3}{32}$ inch.....
Width of laps on body and head seams ²	$\frac{3}{4}$ inch.....	$\frac{3}{4}$ inch.....	$\frac{3}{4}$ inch.....	$\frac{3}{4}$ inch.....
Width of laps on head for head seams ²	$\frac{3}{4}$ inch.....	$\frac{3}{4}$ inch.....	$\frac{3}{4}$ inch.....	$\frac{3}{4}$ inch.....
Head seams.....	Double lap.....	Double lap.....	Double lap.....	Single lap.....

¹ Smokeless powder 32 pounds gross.

² Dimension requirements do not apply for kegs manufactured with double-seamed, compound-lined chime seams and lapped and soldered side seam.

NOTE: Dimensions of materials specified are minimum requirements. Gauge specified is for commercial plate, United States standard. Corrugations not required in body of kegs for gross weights not over 7 pounds.

Subpart E—Specifications for Wooden Barrels, Kegs, Boxes, Kits, and Drums

In § 78.168-4 amend paragraph (a) (15 F.R. 8460, Dec. 2, 1950) to read as follows:

§ 78.168 Specification 15A; wooden boxes, nailed.

§ 78.168-4 Sides, top, and bottom.

(a) Joints tongued, grooved, and glued, or one-piece equivalent, except that boxes for shipment of high explosives may have tops and bottoms made of paper-covered veneer board of good quality Douglas fir, or lumber of equal quality, having minimum thickness of $\frac{3}{8}$ inch and free from decay, objectionable knots that interfere with nailing, splits, gaps, and other defects that materially lessen the strength. Paper covering shall be at least kraft untreated linerboard having a basis weight of 42 pounds per 1,000 square feet and shall be secured to veneer core by adhesive in such manner as to form a satisfactorily laminated board. Board ends must be provided with such reinforcement as may be necessary to provide strength for nailing, and when used lumber thicknesses specified by § 78.168-12 do not apply.

Subpart F—Specifications for Fiberboard Boxes, Drums, and Mailing Tubes

In § 78.209-15 add paragraph (b) (2) Note (20 F.R. 8110, Oct. 28, 1955) to read as follows:

§ 78.209 Specification 12H; fiberboard boxes.

§ 78.209-15 Material.

* * *

(b) * * *

(2) * * *

NOTE: The test shall be conducted on a sample no greater than 6 inches in diameter when exposed to water. The sample shall be rigidly fastened to a water column device so constructed as to provide at least a 3-inch head of water on the outer surface of the fiberboard sample. The water column device must be suspended in such manner that free circulation of air on the inner surface of fiberboard sample which is not exposed to water is permitted. After contact with water for 3 hours under conditions specified, the water column device shall be emptied, the sample blotted, and immediately subjected to Mullen or Cady test. (A 6-inch diameter pipe having a welded flange to which the sample is secured by a bolted ring flange is acceptable.)

In § 78.214-19 add paragraph (b) (2) Note (15 F.R. 8480, Dec. 2, 1950) to read as follows:

§ 78.214 Specification 23F; fiberboard boxes.

§ 78.214-19 Material.

* * *

(b) * * *

(2) * * *

NOTE: The test shall be conducted on a sample no greater than 6 inches in diameter when exposed to water. The sample shall be rigidly fastened to a water column device so constructed as to provide at least a 3-inch head of water on the outer surface of the fiberboard sample. The water column device must be suspended in such manner that free circulation of air on the inner surface of fiberboard sample which is not exposed to water is permitted. After contact with

water for 3 hours under conditions specified, the water column device shall be emptied, the sample blotted, and immediately subjected to Mullen or Cady test. (A 6-inch diameter pipe having a welded flange to which the sample is secured by a bolted ring flange is acceptable.)

In § 78.219-15 add paragraph (b) (2) Note (17 F.R. 1565, Feb. 20, 1952) to read as follows:

§ 78.219 Specification 23H; fiberboard boxes.

§ 78.219-15 Material.

* * *

(b) * * *

(2) * * *

NOTE: The test shall be conducted on a sample no greater than 6 inches in diameter when exposed to water. The sample shall be rigidly fastened to a water column device so constructed as to provide at least a 3-inch head of water on the outer surface of the fiberboard sample. The water column device must be suspended in such manner that free circulation of air on the inner surface of fiberboard sample which is not exposed to water is permitted. After contact with water for 3 hours under conditions specified, the water column device shall be emptied, the sample blotted, and immediately subjected to Mullen or Cady test. (A 6-inch diameter pipe having a welded flange to which the sample is secured by a bolted ring flange is acceptable.)

Subpart H—Specifications for Portable Tanks

In § 78.245-1 paragraph (b) add Exception (3) thereto (15 F.R. 8483, Dec. 2, 1950) to read as follows:

§ 78.245 Specification 51; steel portable tanks.

§ 78.245-1 Requirements for design and construction.

* * *

(b) * * *

Exceptions. (1) The openings for liquid level gauging devices, or for safety devices, may be installed separately at the other location or in the side of the shell; (2) one plugged opening of 2-inch National Pipe Thread or less provided for maintenance purposes may be located elsewhere; (3) an opening of 3-inch National Pipe Size or less may be provided at another location, when necessary, to facilitate installation of condensing coils.

APPENDIX

Section, Paragraph, and Reason for Amendment

- 72.5(a) Commodity List; provides amendments and additions to keep Commodity List on a current basis.
- 73.23(a); to specify that container closures must be secured in a manner that will prevent leakage of contents in transportation.
- 73.31(g)(9) table 2, and footnote h; to remove "hydrostatic"; and insert "none" in the 5th and 6th columns respectively of spec. ICC-110A500-W entry for consistency and clarification; to provide a 10-year moratorium for spec. 107A tank cars, used exclusively in helium gas service by the U.S. Bureau of Mines, from quinquennial hydrostatic retest requirements.
- 73.51(q); designates the appropriate offices within the Air Force having authority to approve military explosives.
- 73.63(a)(3); to authorize the transportation of high explosives, surrounded by nitro-carbonitrate, in spec. 23F and 23H fiberboard boxes.

73.79(b); to provide for the transportation of jet thrust units, class A of such design and prepared for shipment in such manner that the unit carrying case could be considered as the outside shipping container.

73.92(b); reason for 73.79(b) applies also to jet thrust units, class B.

73.93(a)(7); to authorize spec. 12B fiberboard boxes with inside spec. 13 metal kegs for propellant explosives (solid), class B.

73.100(b)(2); to designate the caliber of small arms ammunition in millimeters as well as inches.

73.100(i); to provide for delay-electric igniters constructed of fiberboard or pasteboard tubes.

73.118(c)(38); to include methyl magnesium bromide in ethyl ether in the list of flammable liquids not exempt, in any quantity, from the regulations.

73.119(b)(4); inside polyethylene bottles are specified, to preclude use of polyethylene bags, for flammable liquids, n.o.s.

73.128(a)(2); to authorize spec. 37A metal drums of specified gauges for paints and related materials having gross weight not over 80 pounds.

73.134(a), (b), (c); to provide specification packaging requirements for methyl magnesium bromide in ethyl ether.

73.134(a)(5); to authorize spec. 17C metal drums with inside metal cans for specific quantities of pyroforic fuel mixed with solvent.

73.148(a)(4) Note 1; to authorize the transportation of monoethylamine in certain ICC-106A and 110A type tank car tanks by highway.

73.190(c)(3); to increase maximum quantity of phosphorus, from 50 grams to 100 grams, permitted in spec. 29 mailing tube by rail express.

73.220 Heading, (b); to provide specification packaging requirements for magnesium metallic (other than scrap), powdered, pellets, turnings, or ribbon.

73.245(a)(5); to authorize spec. 10A wooden barrels or kegs, lined with paraffin or wax, for acids and other corrosive liquids, n.o.s.

73.262(b)(2); to authorize spec. 6J steel drum with inside spec. 2S polyethylene container for hydrobromic acid between 49 percent and 63 percent strength.

73.271(a)(16); to authorize spec. 17C metal drums for phosphorus trichloride.

73.314(a) table; to authorize an increased filling density, from 100 percent to 110 percent, for hexafluoropropylene; to provide for the transportation of aqua ammonia solutions in certain pressure tank cars.

73.315(a)(1) table, (h) table, (i)(2) table; to authorize the transportation of aqua ammonia solutions, dichlorodifluoromethane and difluoroethane mixture, and hexafluoropropylene in MC 330 cargo tanks.

73.315(a)(1) Note 3; to cite the current A.S.M.E. standard applicable to design of containers for low temperature operation.

73.315(h) table, Note 1; to provide special gauging device requirements for newly constructed cargo tanks in liquefied petroleum gas service.

73.349(a)(3); to authorize spec. 12A fiberboard boxes with inside glass bottles for carboric acid (phenol) liquid.

73.357(b)(1) and Note 1; to authorize an increase, from 250 to 275 pounds, in water capacity of cylinders for chlorpicrin and mixtures of chlorpicrin; to authorize the transportation of chlorpicrin mixtures containing not over 15 percent by volume of chlorpicrin in cylinders not exceeding 458 pounds water capacity.

73.359(a)(12); to authorize spec. 12A fiberboard boxes with inside metal containers for organic phosphate compound mixtures, liquid, n.o.s.

73.377(g)(2); to authorize spec. 12B fiberboard box with inside plastic bag for certain class B poisonous mixtures, dry.

73.392(b)(1); to provide packaging requirements for uranium, normal or depleted, in solid form.

73.394(c); to provide labeling requirements for shipments of uranium, normal or depleted, in solid form.

73.414(d); to prescribe a label for shipments of uranium, normal or depleted, in solid form.

74.532(b)(1) Note 1; to authorize the transportation of flammable liquids and flammable gases in truck bodies or trailers, equipped with certain types of heating or refrigeration apparatus, on flat cars.

74.532(i); to clarify the car loading requirements for cylinders containing compressed gases.

74.532(j)(2); to exempt shipments of uranium depleted or normal from the radiation unit limitation specified.

74.532(j)(2)(i); to specify conditions under which containers of radioactive material may be loaded in gondola cars or on flat cars.

74.584(a) table footnote 1; to provide certain exceptions from billing requirements for uranium, depleted or normal.

74.586(h)(4) Note 1; to exempt shipments of uranium, depleted or normal, from certain loading and storage requirements in rail freight transportation.

75.655(j)(7) Note 1; to exempt shipments of uranium, depleted or normal, from certain loading and storage requirements in rail express transportation.

77.840(a)(1); to clarify the motor vehicle loading requirements for cylinders containing compressed gases.

77.840(c); to authorize the transportation of monoethylamine in certain ICC-106A and 110A type tank car tanks by highway.

77.841(d)(5) Note 1; to exempt shipments of uranium, depleted or normal, from certain loading and storage requirements in highway transportation.

78.21-3(a); to conform with the other specifications for inside plastic containers; to authorize the addition of other materials to the polyethylene that will not affect the properties of the plastic in spec. 2T containers.

78.44-12(b) footnote; to show the change of address of the Compressed Gas Association.

78.51-17(c) footnote; same as § 78.44-12(b).

78.54-8(a)(2) footnote; same as § 78.44-12(b).

78.56-2(a); to increase nominal water capacity of spec. 4AA480 cylinders from 278 pounds to not over 1,000 pounds.

78.56-17(b) footnote; same as § 78.44-12(b).

78.57-9(c) footnote; same as § 78.44-12(b).

78.58-8(a) footnote; same as § 78.44-12(b).

78.60-18(a)(1) footnote; same as § 78.44-12(b).

78.68-17(b) footnote; same as § 78.44-12(b).

Appendix § 22(b)(4)(b) footnote; same as § 78.44-12(b).

78.107-9(a)(3); to authorize spec. 42B aluminum drum markings to show metal thickness in either gauge or decimal numbers.

78.108-9(a)(3); reason for § 78.107-9(a)(3) applies also to spec. 42C aluminum barrels or drums.

78.109-9(a)(3); reason for § 78.107-9(a)(3) applies also to spec. 42D aluminum drums.

78.110-8(a)(3); reason for § 78.107-9(a)(3) applies also to spec. 42F aluminum barrels or drums.

78.111-8(a)(3); reason for § 78.107-9(a)(3) applies also to spec. 42G aluminum drums.

78.133-5(a); to clarify that spec. 37P steel drum is constructed dependent upon the rated capacity of the inside plastic container.

78.136-9(a)(3); reason for § 78.107-9(a)(3) applies also to spec. 42E aluminum drums.

78.140-3(a) table and Note 2; to exempt certain type of spec. 13 metal kegs from width of lap dimension requirement.

78.168-4(a); to authorize construction of spec. 15A wooden boxes having tops and bottoms of paper-covered veneer board.

78.209-15(b)(2) Note; to specify a method of conducting water test on spec. 12H fiberboard sample and require sample to be subjected to Mullen or Cady test.

78.214-19(b)(2) Note; reason for § 78.209-15(b)(2) applies also to spec. 23F fiberboard box.

78.219-15(b)(2) Note; reason for § 78.209-15(b)(2) applies also to spec. 23H fiberboard box.

78.245-1(b) Exception 3; to permit an opening in spec. 51 portable tank for the installation of condensing coils.

[F.R. Doc. 61-10291; Filed, Oct. 30, 1961; 8:48 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 3]

[Docket No. 14120]

TABLE OF ASSIGNMENTS; TELEVISION BROADCAST STATIONS IN CERTAIN STATES

Order Extending Time for Filing Comments and Reply Comments

In the matter of amendment of § 3.606 *Table of Assignments*, Television Broadcast Stations (Huntsville, Fort Payne, Guntersville, Tuskegee, and Sheffield, Alabama; Humboldt and Murfreesboro, Tennessee; Dalton and Fort Valley, Georgia; and Corbin, Kentucky; Jasper and Hamilton, Ala., and Starkville, Mississippi), Docket No. 14120 (RM-241), (RM-253), (RM-280).

1. In a motion, filed October 23, 1961, Rocket City Television, Inc., licensee of WAFG-TV, Channel 31, Huntsville, Alabama, requests an extension of time for filing comments from October 27 until December 15, 1961, and reply comments from November 6 to December 25, 1961.

2. Rocket City counsel and technical staff are unable to give full consideration to the Notice of Further Proposed Rule Making, adopted September 27, 1961, because of involvement in Docket Numbers 14229 and 14236 (RM-258) where, by order of the Commission, released September 5, 1961, the time to file comments has been extended to December 4, 1961. Rocket City, on June 14, 1961, filed comments with respect to the original proposals for additional channel assignments to Huntsville, Alabama.

3. In view of the circumstances, a limited extension of time appears warranted. However, we believe the extended period requested by the petitioner would unduly delay the proceeding.

4. Accordingly, the time for filing comments is extended from October 27, 1961, to November 17, 1961, and the time for filing reply comments is extended from

PROPOSED RULE MAKING

November 6, 1961, to November 27, 1961. *It is further ordered*, That to the extent that the request for extensions is consistent with the foregoing, they are granted and in other respects they are denied.

5. This action is taken pursuant to authority found in sections 4(i) and 303(r) of the Communications Act of 1934, as amended, and section 0.241(d) (8) of the Commission's rules.

Released: October 25, 1961.

FEDERAL COMMUNICATIONS
COMMISSION,
[SEAL] BEN F. WAPLE,
Acting Secretary.

[F.R. Doc. 61-10339; Filed, Oct. 30, 1961;
8:52 a.m.]

Notices

DEPARTMENT OF STATE

[Delegation of Authority No. 91-A;
Public Notice 197]

SCIENCE ADVISER

Delegation of Authority

Pursuant to the authority vested in me by section 4 of the Act of May 26, 1949 (63 Stat. 111; 5 U.S.C. 151c), I hereby delegate to the Science Adviser of the Department of State, or in his absence to the officer designated to act for him, the performance of all the functions which the Secretary of State is authorized to perform pursuant to and under the authority of section 13(a) and section 13(b) (1) and (2) of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861-1875).

Delegation of Authority No. 91, dated August 27, 1956, is cancelled and superseded by this delegation.

Dated: October 23, 1961.

DEAN RUSK,
Secretary of State.

[F.R. Doc. 61-10324; Filed, Oct. 30, 1961;
8:50 a.m.]

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

AMENDMENT TO STATEMENT OF ORGANIZATION

Effective upon publication in the FEDERAL REGISTER, the following amendment to the Statement of Organization of the Immigration and Naturalization Service (19 F.R. 8071, December 8, 1954), as amended, is prescribed:

Sectors No. 20 and No. 22 of paragraph (d) of section 1.51 are amended so that when taken with the introductory material they will read as follows:

SEC. 1.51 *Field Service.* The territory within which officials of the Immigration and Naturalization Service are located is divided into regions, districts, suboffices, and Border Patrol sectors as follows:

(d) *Border Patrol Sectors.* Border Patrol sector headquarters and stations are situated at the following locations:

SECTOR No. 20—PORT ISABEL, TEX.

Corpus Christi, Tex.
Galveston, Tex.
Harlingen, Tex.
Kingsville, Tex.
Port Isabel, Tex.

SECTOR No. 22—MIAMI, FLA.

Charleston, S.C.
Daytona Beach, Fla.
Dothan, Ala.

Ft. Lauderdale, Fla.
Fort Myers, Fla.
Fort Pierce, Fla.
Homestead, Fla.
Jacksonville, Fla.
Key West, Fla.
Marathon, Fla.
Miami, Fla.
Orlando, Fla.
Savannah, Ga.
Tallahassee, Fla.
Tampa, Fla.
West Palm Beach, Fla.

Dated: October 24, 1961.

J. M. SWING,
Commissioner of
Immigration and Naturalization.

[F.R. Doc. 61-10323; Filed, Oct. 30, 1961;
8:50 a.m.]

DEPARTMENT OF COMMERCE

Maritime Administration

TRADE ROUTE NO. 5-7-8-9 U.S. NORTH ATLANTIC/UNITED KINGDOM AND CONTINENT

Notice of Conclusions and Determinations Regarding Essentiality and United States Flag Service Requirements

Notice is hereby given that on October 24, 1961, the Maritime Administrator, acting pursuant to section 211 of the Merchant Marine Act, 1936, as amended, found and determined the essentiality and United States flag service requirements of United States foreign Trade Route No. 5-7-8-9 and ordered that the following conclusions and determinations reached by the Maritime Administrator with respect to said trade route be published in the FEDERAL REGISTER:

1. Essential U.S. foreign trade routes formerly designated Trade Routes Nos. 5, 7, 8, and 9 are consolidated into one over-all trade route designated Trade Route No. 5-7-8-9.

2. Trade Route No. 5-7-8-9 as described below is affirmed as an essential foreign trade route of the United States: Between United States North Atlantic ports (Maine-Virginia, inclusive) and ports in the United Kingdom, Republic of Ireland, and Atlantic Europe (Germany to the northern border of Portugal).

3. U.S. flag passenger, combination, and freight services and ship requirements are found and determined to be essential for operation on Trade Route No. 5-7-8-9 as follows:

a. *Passenger service.* Approximately weekly sailings between New York and the foreign area of Trade Route No. 5-7-8-9 with large fast passenger ships. Passenger ships approximately equivalent to the "SS United States" are suitable for long-range operation on the route. The "SS America" is suitable for interim operation.

b. *Combination service.* Approximately weekly sailings between United States Atlantic ports south of New York and the foreign area of Trade Route No. 5-7-8-9 with combination passenger-cargo ships. These ships should be moderately large and fast with substantial space for cargo.

c. *Freight service.* Approximately 30 sailings monthly serving Trade Route No. 5-7-8-9 exclusively, with direct sailings to each of the following areas on not less than a weekly frequency: Germany; Belgium and the Netherlands; West Coast United Kingdom; and France and East Coast United Kingdom. Additional service may be provided by other regularly scheduled United States flag sailings serving the route in part only.

Replacement freight ships of the C-4 type now under construction are suitable for long-term operation on the route. Other replacement ships should also be faster and larger than the ships now employed on the route. Freight ships of the C-type and Victory-type are considered suitable for interim operation on the route.

By order of the Maritime Administrator.

Dated: October 26, 1961.

JAMES S. DAWSON, Jr.,
Acting Secretary.

[F.R. Doc. 61-10326; Filed, Oct. 30, 1961;
8:50 a.m.]

ATOMIC ENERGY COMMISSION

[Docket No. 115-3]

CONSUMERS PUBLIC POWER DISTRICT, POWER DEMONSTRATION REACTOR PROJECT

Notice of Hearing on Provisional Operating Authorization for Nuclear Facility

Pursuant to the Atomic Energy Act of 1954, as amended, and the regulations in Part 115, 10 CFR, "Procedures for Review of Certain Nuclear Reactors Exempted from Licensing Rules," and Part 2, 10 CFR, "Rules of Practice," notice is hereby given that a hearing will be held at 10:00 a.m., e.s.t., on November 30, 1961, in the auditorium of the Atomic Energy Commission Headquarters at Germantown, Maryland, to consider the issuance of a provisional facility operating authorization to permit the performance of only certain dry critical experiments designated by the applicant as "Dry Zero Power Experiments" for a period not to exceed six months to the above named applicant. Authority for any further operation of the facility will be subject to subsequent hearing. The facility is a sodium-cooled, graphite moderated nuclear reactor located in Lancaster County, Nebraska, about 1½ miles north of the village of Hallam and

about 19 miles south of Lincoln, Nebraska. The application and the record of the prior proceedings in this matter are available for public inspection at the Atomic Energy Commission Public Document Room, 1717 H Street NW., Washington, D.C.

The issues to be considered at the hearing will be the following:

1. Whether the technical information omitted from and required to complete the application filed by the applicant with respect to the "Dry Zero Power Experiments" has been submitted;

2. Whether the construction of the facility has proceeded, and there is reasonable assurance that the facility will be completed in conformity with the construction authorization and the application as amended, the provisions of the Act, and the rules and regulations of the Commission;

3. Whether there is reasonable assurances (i) that the "Dry Zero Power Experiments" authorized by the provisional operating authorization can be conducted without endangering the health and safety of the public, and (ii) that the "Dry Zero Power Experiments" will be conducted in compliance with the rules and regulations of the Commission;

4. Whether the North American Aviation, Inc., is technically and financially qualified to engage in the performance of the "Dry Zero Power Experiments" authorized by the provisional operating authorization in accordance with the rules and regulations of the Commission;

5. Whether there is reasonable assurance that the facility will be ready for initial loading with nuclear fuel for the performance of the "Dry Zero Power Experiments" within ninety (90) days from the date of issuance of such provisional authorization.

Notice is hereby given that the Final Hazards Report submitted by Atomics International with respect to the performance of the "Dry Zero Power Experiments", and the report of the AEC's Advisory Committee on Reactor Safeguards in this matter are available for public inspection at the AEC's Public Document Room. The report of the Division of Licensing and Regulation in this matter will be available approximately twenty (20) days prior to the hearing. Copies of these documents may be obtained by a request to the Director, Division of Licensing and Regulation, U.S. Atomic Energy Commission, Washington 25, D.C.

Petitions for leave to intervene must be received in the office of the Secretary, Atomic Energy Commission, Germantown, Maryland, or in the Atomic Energy Commission's Public Document Room, 1717 H Street NW., Washington 25, D.C., not later than thirty (30) days after publication of this notice in the FEDERAL REGISTER or, in the event of postponement of the hearing date specified above, at such time as the presiding officer may provide.

Answers to this notice, pursuant to § 2.736 of the Commission's rules of practice, shall be filed on or before November 15, 1961, by North American Aviation, Inc., and by the Consumers Public Power District.

Papers required to be filed with the Atomic Energy Commission in this pro-

ceeding shall be filed by mailing to the Secretary, Atomic Energy Commission, Washington 25, D.C., or may be filed in person at the office of the Secretary, Atomic Energy Commission, Germantown, Maryland, or at the AEC Public Document Room, 1717 H Street NW., Washington, D.C. Pending further order of the presiding officer, parties shall file twenty (20) copies of each such paper with the Atomic Energy Commission and where service of papers is required, all other parties shall serve five (5) copies of each.

The provisions of Subpart G of the Commission's rules of practice, 10 CFR Part 2, shall apply to the same extent as in a proceeding concerning licensing and licenses.

The hearing will be conducted by a presiding officer to be designated by the Chief Hearing Examiner.

For the Atomic Energy Commission.

Dated at Germantown, Md., this 26th day of October 1961.

ROBERT LOWENSTEIN,
*Acting Director, Division of
Licensing and Regulation.*

[F.R. Doc. 61-10379; Filed, Oct. 30, 1961;
8:53 a.m.]

CIVIL AERONAUTICS BOARD

[Docket 11654]

AIRLINE PILOTS ASSOCIATION v. SOUTHERN AIRWAYS, INC., EN- FORCEMENT PROCEEDING

Notice of Oral Argument

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that oral argument in the above-entitled proceeding is assigned to be heard on November 29, 1961 at 10 a.m., e.s.t., in Room 1027, Universal Building, Connecticut and Florida Avenues NW., Washington, D.C., before the Board.

Dated at Washington, D.C., October 26, 1961.

[SEAL] FRANCIS W. BROWN,
Chief Examiner.

[F.R. Doc. 61-10328; Filed, Oct. 30, 1961;
8:50 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket Nos. 14007, 14008; FCC 61M-1693]

VERNON E. PRESSLEY AND FOLK- WAYS BROADCASTING CO., INC. (WTCW)

Order Continuing Hearing

In re applications of Vernon E. Pressley, Canton, North Carolina, Docket No. 14007, File No. BP-12872; Folkways Broadcasting Company, Inc. (WTCW), Whitesburg, Kentucky, Docket No. 14008, File No. BP-13526; for construction permits.

The Hearing Commissioner having before him a Petition for Partial Con-

tinuance of Hearing filed by Vernon E. Pressley on October 24, 1961, in which it is requested that hearing with regard to issue 10 be continued from October 30, 1961, to November 13, 1961; and

It appearing that this continuance is requested due to illness of counsel and will not impede going forward on all issues save issue 10; and

It further appearing that counsel for all other parties to the proceeding have consented to grant of this request and to its early consideration;

It is ordered, This 25th day of October 1961, that the above-described petition is granted; and that hearing on issue 10 is continued to November 13, 1961. Hearing will, however, be held on October 30, 1961, on all other issues not heretofore rendered moot.

Released: October 25, 1961.

FEDERAL COMMUNICATIONS
COMMISSION,
[SEAL] BEN F. WAPLE,
Acting Secretary.

[F.R. Doc. 61-10331; Filed, Oct. 30, 1961;
8:51 a.m.]

[Docket Nos. 14213, 14214; FCC 61M-1682]

SEWARD BROADCASTING CO., INC., AND SALTVILLE BROADCASTING CORP.

Order Continuing Hearing

In re applications of The Seward Broadcasting Company, Incorporated, Marion, Virginia, Docket No. 14213, File No. BP-13803; Saltville Broadcasting Corporation, Saltville, Virginia, Docket No. 14214, File No. BP-14611; for construction permits.

The Hearing Examiner having under consideration a petition filed October 19, 1961 on behalf of The Seward Broadcasting Company, Incorporated, requesting that the date for exchange of exhibits in this proceeding be continued to November 20, 1961, and that the date for commencement of hearing be continued to November 27, 1961;

It appearing, that counsel for all other parties have consented to the requested dates, that the public interest requires immediate consideration of the petition, that good cause for a grant thereof has been shown, and that such a grant will conduce to the orderly dispatch of the Commission's business; and

It further appearing, that due to a prior commitment of the Hearing Examiner the November 27 hearing date is unavailable;

It is ordered, This 20th day of October 1961, that the aforesaid petition is granted to the extent indicated, that the date for exchange of exhibits is extended from October 23 to November 20, 1961, and that the date for commencement of hearing is continued from October 30 to 10:00 a.m., November 29, 1961.

Released: October 23, 1961.

FEDERAL COMMUNICATIONS
COMMISSION,
[SEAL] BEN F. WAPLE,
Acting Secretary.

[F.R. Doc. 61-10332; Filed, Oct. 30, 1961;
8:51 a.m.]

[Docket No. 14314; FCC 61-1223]

KOFE, INC. (KOFE)**Order Designating Application for Hearing on Stated Issues**

In re application of KOFE, Inc. (KOFE), Pullman, Washington, Docket No. 14314, File No. BML-1929, Has: 1150kc, 1kw, Day, Pullman, Washington, Requests: 1150kc, 1kw, Day, Pullman, Washington-Moscow, Idaho; for modification of license.

At a session of the Federal Communications Commission held at its offices in Washington, D.C., on the 18th day of October 1961;

The Commission having under consideration the above-captioned and described application;

It appearing, that, except as indicated by the issues specified below, the instant applicant is legally, technically, financially, and otherwise qualified to construct and operate the instant proposal; and

It further appearing, that the instant proposal will not provide a signal strength of 25 mv/m over the business district of Moscow, Idaho as required by § 3.188(b)(1) of the Commission rules; and

It further appearing, that the instant applicant, by its application and amendment dated May 15, 1961 in response to a Commission letter dated April 17, 1961, has not made a satisfactory showing pursuant to § 3.30(b) of the Commission rules that origination of a majority of the station's programs from the main studio or from other studios or remote points situated in the place where the station is located, places an unreasonable burden upon the licensee; and

It further appearing, that, in view of the foregoing, the Commission is unable to make the statutory finding that a grant of the subject application would serve the public interest, convenience, and necessity, and is of the opinion that the application must be designated for hearing on the issues set forth below:

It is ordered, That, pursuant to section 309(e) of the Communications Act of 1934, as amended, the instant application is designated for hearing, at a time and place to be specified in a subsequent order, upon the following issues:

1. To determine whether the instant proposal would provide coverage of Moscow, Idaho, as required by § 3.188(b)(1) of the Commission rules, and, if not, whether circumstances exist which would warrant a waiver of said section.

2. To determine whether the instant proposal is consistent with the requirements of § 3.30(b) of the Commission rules, to warrant an authorization for dual city operation.

3. To determine, in the light of the evidence adduced pursuant to the foregoing issues, whether a grant of the instant application would serve the public interest, convenience and necessity.

It is further ordered, That to avail itself of the opportunity to be heard, the applicant, pursuant to § 1.140 of the Commission rules, in person or by attorney, shall, within 20 days of the mailing

of this order, file with the Commission in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this order.

It is further ordered, That the applicant herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.362(b) of the Commission's rules, give notice of the hearing, within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.362(c) of the rules.

Released: October 23, 1961.

FEDERAL COMMUNICATIONS
COMMISSION,[SEAL] BEN F. WAPLE,
Acting Secretary.[F.R. Doc. 61-10333; Filed, Oct. 30, 1961;
8:51 a.m.]

[Docket No. 14314; FCC 61M-1686]

KOFE, INC. (KOFE)**Order Scheduling Hearing**

In re application of KOFE, Inc. (KOFE), Pullman, Washington, Docket No. 14314, File No. BML-1929; for modification of license.

It is ordered, This 24th day of October 1961, that Jay A. Kyle will preside at the hearing in the above-entitled proceeding which is hereby scheduled to commence on December 15, 1961, in Washington, D.C.; and, *It is further ordered*, That a prehearing conference in the proceeding will be convened by the presiding officer at 9:00 a.m., Wednesday, November 22, 1961.

Released: October 25, 1961.

FEDERAL COMMUNICATIONS
COMMISSION,[SEAL] BEN F. WAPLE,
Acting Secretary.[F.R. Doc. 61-10334; Filed, Oct. 30, 1961;
8:51 a.m.]

[Docket No. 14313; FCC 61M-1687]

WFYC, INC. (WFYC)**Order Scheduling Hearing**

In re application of WFYC, Incorporated (WFYC), Alma, Michigan, Docket No. 14313, File No. BP-13807; for construction permit.

It is ordered, This 24th day of October 1961, that Forest L. McClenning will preside at the hearing in the above-entitled proceeding which is hereby scheduled to commence on December 15, 1961, in Washington, D.C.; and, *It is further ordered*, That a prehearing conference in the proceeding will be convened by the presiding officer at 9:00 a.m., Wednesday, November 22, 1961.

Released: October 25, 1961.

FEDERAL COMMUNICATIONS
COMMISSION,[SEAL] BEN F. WAPLE,
Acting Secretary.[F.R. Doc. 61-10336; Filed, Oct. 30, 1961;
8:51 a.m.]

[FCC 61-1230]

**STATEMENT OF ORGANIZATION,
DELEGATIONS OF AUTHORITY AND
OTHER INFORMATION****Redesignation of Economics Division
as Research and Education Division
in the Broadcast Bureau**

At a session of the Federal Communications Commission held at its offices in Washington, D.C., on the 18th day of October 1961.

The Commission having under consideration the redesignation of the Economics Division of the Broadcast Bureau as the Research and Education Division and the establishment of an Educational Broadcasting Branch in such Division; and

It appearing, that the amendments adopted herein would promote greater efficiency and effectiveness in Commission operations; and

It further appearing, that the amendments adopted herein are procedural in nature, and, therefore, compliance with the public notice and rule-making procedures, required by sections 4 (a) and (b) of the Administrative Procedure Act is not required;

It is ordered, That, effective October 18, 1961, and pursuant to sections 4 (f) and (i) and 5(b) of the Communications Act of 1934, as amended, the Economics Division is redesignated the Research and Education Division, and an Educational Broadcasting Branch is established within this Division of the Broadcast Bureau.

It is further ordered, That the Research and Education Division and its Educational Broadcasting Branch, under the supervision and direction of the Chief of the Bureau, shall be responsible for the performance of all functions of the Broadcast Bureau relating to the compilation of information, the conduct of studies and the making of recommendations relating to educational broadcast services and serving as a clearinghouse of information for and liaison with private or governmental groups interested in or involved with educational broadcasting.

It is further ordered, That pursuant to sections 4 (f) and (i) and 5(b) of the Communications Act of 1934, as amended, Part O of the Commission's rules and regulations is amended, effective October 18, 1961, as set out below.

Released: October 24, 1961.

FEDERAL COMMUNICATIONS
COMMISSION,[SEAL] BEN F. WAPLE,
Acting Secretary.

1. Section 0.12 is amended to read:

SEC. 0.12 *Units in the Bureau.* The Broadcast Bureau is divided into the following units:

- (a) The Office of the Chief of Bureau.
- (b) Broadcast Facilities Division.
- (c) Renewal and Transfer Division.
- (d) Rules and Standards Division.
- (e) Research and Education Division.
- (f) License Division.
- (g) Office of Network Study.
- (h) Hearing Division.
- (i) Complaints and Compliance Division.

2. Section 0.18 is amended to read:

SEC. 0.18 Research and Education Division. The Research and Education Division compiles data and prepares reports to the Commission on the condition and status of the broadcast industry; studies the social and economic factors affecting communications; and advises the Bureau and the Commission with respect to the development and promotion of the educational broadcasting and the commercial broadcasting services.

[F.R. Doc. 61-10337; Filed, Oct. 30, 1961; 8:51 a.m.]

[FCC 61-1286]

AURAL BROADCAST SERVICES

Commission Action on Contingent Applications

OCTOBER 26, 1961.

The Commission's experience has disclosed that the existing policy of accepting "contingent" applications in the aural broadcast services for construction permits for new facilities and/or for major modifications has not been satisfactory. Since no action can be taken on such applications pending removal of the contingency, holding these applications in our pending files does not serve any valid public interest. Moreover, experience has shown that such applications consume appreciable staff time, which could be devoted to the processing of other applications. Since many of these applications must be held for long periods of time, it is usually necessary for the applicants to file substantial amendments when the contingencies have finally been resolved.

In view of the foregoing, the Commission has concluded that no additional "contingent" applications of the type referred to above will be accepted for filing from this date. The Commission will delete Question 3 on page 1 of FCC Form 701, which relates to the filing of contingent applications as soon as practicable.

Adopted: October 25, 1961.

FEDERAL COMMUNICATIONS
COMMISSION,
[SEAL] BEN F. WAPLE,
Acting Secretary.

[F.R. Doc. 61-10338; Filed, Oct. 30, 1961; 8:51 a.m.]

FEDERAL MARITIME COMMISSION

[Docket No. 958]

AMERICAN EXPORT LINES, INC.; POOLING AGREEMENT

Notice of Investigation and of Hearing

On October 18, 1961, the Federal Maritime Commission entered the following order:

Whereas, pursuant to section 15 of the Shipping Act, 1916, an agreement between American Export Lines, Inc., American President Lines, Ltd., Fassio Line (Villain & Fassio e Compagnia Internazionale Di Genova—Societa Riunite di Navigazione S.p.A.), Costa Line (Giacomo Costa Fu Andrea), "Italia" Societa per Azioni di Navigazione, has been filed for approval and has been assigned Federal Maritime Commission Agreement Number 8686; and

Whereas, Prudential Steamship Corp. and Hellenic Lines, Ltd. have protested and requested that Agreement Numbered 8686 be disapproved or modified in significant respects and, to the extent appropriate for said purpose, a formal hearing should be instituted; and

Whereas, the Commission having considered the requests of Prudential Steamship Corp., and Hellenic Lines, Ltd., and being of the opinion that sufficient reason has been shown to warrant withholding of the approval of Agreement Numbered 8686, pending a hearing for the purpose of receiving evidence in order to determine whether Agreement Numbered 8686 should be approved, disapproved or modified, pursuant to section 15 of the Shipping Act, 1916, and good cause appearing;

It is ordered, That, pursuant to sections 15 and 22 of the Shipping Act, 1916, the Commission, upon its own motion, enter upon an investigation and hearing for the taking of evidence to determine whether (1) Agreement Numbered 8686, if approved, would be unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters of the United States and their foreign competitors, or to operate to the detriment of the commerce of the United States, within the meaning of section 15 of the 1916 Act; (2) whether said agreement, if approved, would subject any particular person, locality or description of traffic to any undue or unreasonable prejudice or disadvantage in any respect whatsoever; (3) whether said agreement will be in violation of any other provision of said Act; and (4) whether said agreement should be approved, disapproved, or modified in any respect, pursuant to said section 15; and

It is further ordered, That American Export Lines, Inc., American President Lines, Ltd., Fassio Line (Villain & Fassio e Compagnia Internazionale Di Genova—Societa Riunite di Navigazione S.p.A.), Costa Line (Giacomo Costa Fu Andrea), and "Italia" Societa per Azioni di Navigazione, be made respondents in this proceeding; and

It is further ordered, That this matter be assigned for hearing before an examiner of the Commission's Office of Hearing Examiners at a date and place to be determined and announced by the Chief Examiner; and

It is further ordered, That action with respect to Agreement Numbered 8686 be

held in abeyance pending the Commission's decision and order in the proceeding herein ordered; and

It is further ordered, That this order and notice of hearing be published in the FEDERAL REGISTER, and a copy of such order and notice of hearing be served upon all respondents, Prudential Steamship Corp. and Hellenic Lines, Limited, and all other interested parties.

Notice is hereby given that the hearing in this proceeding will be held before an examiner of the Commission's Office of Hearing Examiners at a date and place hereafter to be announced. The hearing will be conducted in accordance with the Commission's rules of practice and procedure, and an initial decision will be issued by the examiner.

All persons (including individuals, corporations, associations, firms, partnerships, and public bodies) having an interest in this proceeding and desiring to intervene therein, should notify the Secretary of the Commission promptly and file petitions for leave to intervene in accordance with Rule 5(n) (46 CFR 201.74) of said rules.

By order of the Federal Maritime Commission.

Dated: October 25, 1961.

THOMAS LISI,
Secretary.

[F.R. Doc. 61-10325; Filed, Oct. 30, 1961; 8:50 a.m.]

ALCOA STEAMSHIP CO., INC., AND AMERICAN EXPORT LINES, INC.

Notice of Agreements Filed for Approval

Notice is hereby given that the following described agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916 (39 Stat. 733, 46 U.S.C. 814):

Agreement Numbered 8741, between Alcoa Steamship Company, Inc. and American Export Lines, Inc., covers a through billing arrangement in the trade from India and Pakistan to Puerto Rico, with transshipment at New York or Baltimore.

Agreement Numbered 8742, between Alcoa Steamship Company, Inc. and American Export Lines, Inc., covers a through billing arrangement in the trade from India and Pakistan to the Virgin Islands, with transshipment at New York or Baltimore.

Interested parties may inspect these agreements and obtain copies thereof at the Office of Regulations, Federal Maritime Commission, Washington, D.C., and may submit within 20 days after publication of this notice in the FEDERAL REGISTER, written statements with reference to either of these agreements and their position as to approval, disapproval, or modification, together with request

for hearing should such hearing be desired.

By order of the Federal Maritime Commission.

Dated: October 26, 1961.

THOMAS LISI,
Secretary.

[F.R. Doc. 61-10327; Filed, Oct. 30, 1961;
8:50 a.m.]

FEDERAL POWER COMMISSION

[Docket No. CP62-77]

ARKANSAS LOUISIANA GAS CO.

Notice of Application and Date of Hearing

OCTOBER 24, 1961.

Take notice that on September 25, 1961, Arkansas Louisiana Gas Company (Applicant), Slattery Building, Shreveport, Louisiana, filed in Docket No. CP62-77 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of field facilities to enable Applicant to take into its certificated transmission pipeline system natural gas which will be purchased from producers thereof from time to time during the calendar year 1967 in the general area of Applicant's existing transmission system at a total cost not to exceed \$6,514,500, with no single project to exceed a cost of \$500,000, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The purpose of this "budget-type" application is to augment Applicant's ability to act with reasonable dispatch in contracting for and connecting to its existing pipeline system new supplies of natural gas in various producing areas generally coextensive with said system.

Applicant proposes to finance the cost of the subject facilities from cash on hand and from cash generated from normal operations and internal sources.

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on November 28, 1961, at 9:30 a.m., e.s.t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D.C., concerning the matters involved in and the issues presented by such application: *Provided, however*, That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of § 1.30(c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary

for Applicant to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before November 17, 1961. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 61-10304; Filed, Oct. 30, 1961;
8:45 a.m.]

[Docket No. CP61-336]

COLORADO INTERSTATE GAS CO.

Notice of Application and Date of Hearing

OCTOBER 24, 1961.

Take notice that on June 22, 1961, Colorado Interstate Gas Company (Applicant), Colorado Springs National Bank Building, Colorado Springs, Colorado, filed an application in Docket No. CP61-336, as supplemented on August 7, 1961, and September 15, 1961, pursuant to section 7 of the Natural Gas Act, for authorization to construct and operate, transfer and retire certain facilities in order to sell and deliver volumes of natural gas on a firm basis to Kansas-Colorado Utilities, Inc., (Kansas-Colorado). Kansas-Colorado will transport and resell such firm gas to Plateau Natural Gas Company (Plateau) for distribution in Hugo, Colorado, which is presently served by Plateau, and in seven other Colorado communities not presently receiving natural gas service.

Applicant's proposals are more fully set forth in the application, as supplemented, on file with the Commission and open to public inspection.

Applicant states that it presently owns and operates a 5.46 mile 4-inch lateral pipeline extending from its Kit Carson-Denver main line to Hugo, Colorado, through which it transports and sells gas to Plateau for resale in Hugo. Applicant herein seeks permission and approval to abandon by sale to Kansas-Colorado its Hugo lateral and retire the existing Hugo city gate meter station. Applicant also seeks herein a certificate of public convenience and necessity authorizing the construction and operation of a meter station at the junction of the Hugo lateral with the Kit Carson-Denver main line in order to sell and deliver up to 2,500 Mcf of natural gas per day, on a firm basis, to Kansas-Colorado. The latter will transport such gas through the Hugo lateral and a proposed 69.25 mile 6-inch pipeline extension for resale to Plateau for distribution in the communities of Hugo, Arriba, Flagler, Seibert, Vona, Stratton, Bethune and Burlington, Colorado.

The peak day natural gas requirements of Hugo and the new service area are estimated to be:

	Mcf at 14.73 psia		
	1961-62	1962-63	1963-64
Hugo.....	514	533	552
New Communities.....	1,921	2,596	3,024
Total.....	2,435	3,129	3,576

Kansas-Colorado will purchase the facilities at the net book value as of the last day of the month immediately preceding the transfer of facilities; as of April 30, 1961, the value is stated to be \$26,950.

The depreciated cost of the Hugo city gate metering facilities, which are proposed to be retired, is estimated at \$10,265 by Applicant. The cost of constructing the new meter station is estimated by Applicant to be \$13,530, which cost will be financed from the funds obtained through the proposed sale of the Hugo lateral to Kansas-Colorado.

The cost of Kansas-Colorado's facilities is estimated to be \$890,112.

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on November 21, 1961, at 9:30 a.m., e.s.t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D.C., concerning the matters involved in and the issues presented by such application: *Provided, however*, That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of § 1.30(c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before November 17, 1961. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 61-10305; Filed, Oct. 30, 1961;
8:45 a.m.]

[Project No. 338]

NEVADA IRRIGATION DISTRICT

Notice of Land Withdrawal, Modification and Correction; California

OCTOBER 25, 1961.

By letter dated August 14, 1950, this Commission gave notice to the Bureau of

Land Management, of the reservation of 1,099.26 acres of United States land pursuant to the filing, by the Nevada Irrigation District, of various applications and amendments for this project. (No. 338).

The licensee, on May 4, 1953, filed an application for amendment of license, with accompanying maps reflecting the actual relocation of, and certain alterations made in the alignment of portions of the Bowman-Spaulding Conduit, including the construction of a 554-foot tunnel.

Therefore, in accordance with section 24 of the Act of June 10, 1920 (41 Stat. 1063), as amended, notice is hereby given that the lands hereinafter described, insofar as title thereto remains in the United States, are included in Project No. 338 and are, from the date of filing of completed application for amendment for license, May 4, 1953, reserved from all forms of disposal under the laws of the United States until otherwise directed by the Commission or by Congress.

MOUNT DIABLO MERIDIAN, CALIFORNIA

All portions of the following subdivisions lying within a strip 100 feet on either side of the center-line survey of the new alignment of tunnel and conduit right-of-way as delimited on map, designated, "Exhibit K-3A" (FPC No. 338-81) and entitled "Relocation of a Portion of Bowman-Spaulding Conduit in Section 18, T. 18 N., R. 12 E." and filed in the Commission May 4, 1953:

T. 18 N., R. 12 E., Sec. 18: N $\frac{1}{2}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW; and:

A comparison of the project boundaries as shown on map "Exhibit K6-19A" (FPC No. 338-82) entitled "Bowman-Spaulding Conduit Relocation (Revised)" filed in the Commission May 4, 1953, superseding map "Exhibit K6-19" (FPC No. 338-79) entitled "Bowman-Spaulding Conduit Relocation" reveals that the lands listed in the last paragraph of Commission notice of Land Withdrawal dated August 14, 1950, should read, and is hereby corrected to read:

T. 17 N., R. 12 E., sec. 6: SW $\frac{1}{4}$ NE $\frac{1}{4}$ of lot 4, SE $\frac{1}{4}$ NW $\frac{1}{4}$ of lot 4, SW $\frac{1}{4}$ of lot 4, W $\frac{1}{2}$ SE $\frac{1}{4}$ of lot 4, NW $\frac{1}{4}$ NE $\frac{1}{4}$ of lot 5, NW $\frac{1}{4}$ of lot 5, N $\frac{1}{2}$ SW $\frac{1}{4}$ of lot 5.

All of the above described lands are within the boundaries of the Tahoe National Forest.

Copies of the revised map exhibits "K5-3A" and "K6-19A" (FPC No. 338-81 and 82) have been transmitted to the Bureau of Land Management, Geological Survey and Forest Service.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 61-10306; Filed, Oct. 30, 1961; 8:46 a.m.]

[Docket No. DA-436-Colorado]

LAND WITHDRAWN IN POWER SITE RESERVE NO. 92

Determination Under Section 24 of the Federal Power Act

OCTOBER 23, 1961.

An application was filed by the Bureau of Land Management, United States Department of the Interior, for the revocation of the power withdrawal with respect to the following-described land or a determination under section 24 of the Federal Power Act with respect thereto pursuant to the filing of an application (Colorado 045111) by Bernard McGowan, of Cotopaxi, Colorado, for acquisition of a portion of said land:

NEW MEXICO PRINCIPAL MERIDIAN, COLORADO
T. 48 N., R. 12 E., sec. 31, lot 6.

The above-described land is crossed by the Arkansas River a half mile below the village of Cotopaxi, Colorado, and is withdrawn in Power Site Reserve No. 92, dated July 2, 1910, conformed to survey by interpretation No. 319, dated November 21, 1942.

Portions of the land may be required for conduit location in connection with the suggested development of the Pleasanton (Sangre de Cristo) project, about three miles upstream in sec. 3, T. 47 N., R. 11 E., immediately above the mouth of tributary Cottonwood Creek. The possible development of an alternate Pleasanton damsite within the tract to store additional run-off from a greater basin area has also been suggested. Both plans would necessitate the relocation of about nine miles of railroad. However, neither plan is under active consideration at present and development does not appear to be imminent.

The Commission finds: Inasmuch as the above-described land is valuable for power purposes, the power withdrawal with respect thereto should not be revoked.

The Commission determines:

The above-described land will not be injured or destroyed for purposes of power development by location, entry, or selection under the public land laws, subject to the provisions of section 24 of the Federal Power Act, as amended.

The above-described land remains in a withdrawn status until the Bureau of Land Management, Department of the Interior, issues a formal order of restoration, and no preference right to the land is acquired by the filing of the above-mentioned application or by this action taken by the Commission with respect to the land.

By the Commission.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 61-10307; Filed, Oct. 30, 1961; 8:46 a.m.]

GENERAL SERVICES ADMINISTRATION

FERROVANADIUM HELD IN NATIONAL STOCKPILE

Proposed Disposition

Pursuant to the provisions of section 3(e) of the Strategic and Critical Materials Stock Piling Act, 50 U.S.C. 98b(e), notice is hereby given of a proposed disposition of approximately 65,447 pounds (gross weight) of subspecification ferrovanadium. This material, now held in the national stockpile by General Services Administration, was acquired by transfer from another Government agency after World War II and before a stockpile specification for ferrovanadium was adopted.

The Office of Emergency Planning has made a revised determination, pursuant to section 2(a) of the Strategic and Critical Materials Stock Piling Act, 50 U.S.C. 98a(a), that there is no longer any need for stockpiling said ferrovanadium. The revised determination was based upon the finding of the Office of Emergency Planning that said ferrovanadium is of a quality that is below specification requirements, that it cannot be benefited to meet specification requirements and that it cannot be used to meet defense needs expeditiously and efficiently in the event of an emergency.

Since the revised determination is not by reason of obsolescence of the ferrovanadium for use in time of war, this proposed disposition is being referred to the Congress for its express approval, as required by section 3(e) of the Strategic and Critical Materials Stock Piling Act.

General Services Administration proposes to transfer said subspecification ferrovanadium to other Government agencies, to offer the material for sale on a competitive basis, or otherwise to dispose of it in the best interest of the Government upon the express approval by the Congress of this proposed disposition or six months after the date of publication of this notice in the FEDERAL REGISTER, whichever is later.

This plan and the dates of disposition have been fixed with due regard to the protection of producers, processors, and consumers against avoidable disruption of their usual markets as well as the protection of the United States against avoidable loss on disposal.

Dated: October 26, 1961.

JOHN L. MOORE,
Administrator.

[F.R. Doc. 61-10342; Filed, Oct. 30, 1961; 8:52 a.m.]

CUMULATIVE CODIFICATION GUIDE—OCTOBER

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